TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION

(Authority: A.R.S. § 42-1004)

The provisions set forth in these rules became effective August 1, 1976, unless otherwise noted in the Historical Note following the rule.

ARTICLE 1. RETAIL CLASSIFICATION

New Article 1, consisting of Section R15-5-151, adopted effective April 15, 1993 (Supp. 93-2).

Former Article 1, consisting of Sections R15-5-101 through R15-5-104, repealed effective April 13, 1987.

Section

ARTICLE 2. INTRODUCTION

Section

ARTICLE 3. REPEALED

ARTICLE 4. AMUSEMENT CLASSIFICATION

Section

ARTICLE 17. RESTAURANT CLASSIFICATION

ARTICLE 18. SALES TAX -- RETAIL CLASSIFICATION

ARTICLE 18.1. SALES OF FOOD

ARTICLE 19. REPEALED

ARTICLE 20. GENERAL

ARTICLE 21. UTILITIES CLASSIFICATION

ARTICLE 22. SALES TAX -- ADMINISTRATION

ARTICLE 23. USE TAX

ARTICLE 24. REPEALED

ARTICLE 25. REPEALED

Article 25, consisting of Sections R15-5-2501 through R15-5-2507, repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

ARTICLE 26. REPEALED

Article 26, consisting of Sections R15-5-2601 through R15-5-2603, R15-5-2614, and R15-5-2616, repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

ARTICLE 1. RETAIL CLASSIFICATION

R15-5-101. Sales for Resale or Lease

A. Gross receipts from the sales of tangible personal property to be resold by the purchaser in the ordinary course of business are not taxable under the retail classification.

B. Gross receipts from the sales of tangible personal property to be leased out by a person in the business of leasing such personal property are not taxable under the retail classification.
1. Gross receipts from the sale of tangible personal property to a lessor of real property are taxable if the tangible personal property is incorporated into, or leased in conjunction with, the real property; and
2. The rental of the tangible personal property is not separately stated as part of the real property lease transaction.

C. Gross receipts from the sale of repair or replacement parts for tangible personal property which is to be leased out by a person engaged in the business of leasing such tangible personal property are not taxable under the retail classification.

D. The seller may establish the deduction for a sale for resale or lease by obtaining documentation from the purchaser pursuant to statutory provisions and to R15-5-2214.

Historical Note
Amended effective November 7, 1978 (Supp. 78-6).
Renumbered from R15-5-1811 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-102. Casual Sales

Gross receipts from a casual sale, as defined in R15-5-2001, are not taxable under the retail classification.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-103. Sale of Business Enterprises

Gross receipts from the sale of a business as a going concern shall not be taxable if the sale is for the business as an operating enterprise.

Historical Note
Renumbered from R15-5-1817 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-104. Service Businesses

A. Gross receipts from the sales of tangible personal property to a person engaged in a professional or personal service occupation or business are taxable if the tangible personal property is used or consumed in the performance of the service or is sold only as an inconsequential element of the nontaxable service provided.

B. Gross receipts from the sale of tangible personal property, by a person engaged in a professional or personal service occupation or business, shall not be taxable if the property is sold only as an inconsequential element of the nontaxable service provided.

C. Sales of tangible personal property shall be considered inconsequential elements of the service if:
1. The purchase price of the tangible personal property to the person rendering the services represents less than 15% of the charge, billing, or statement rendered to the purchaser in connection with the transaction;
2. At the time of the sale, the tangible personal property transferred is not in a form which is subject to retail sale; and
3. The charge for the tangible personal property is not separately stated on the invoice.

D. A person engaged in both a retail business and a service business shall keep records of purchases of tangible personal prop-

erty sufficient to establish whether the property was resold as a taxable retail sale.

Historical Note
Renumbered from R15-5-1805 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-105. Services in Connection with Retail Sales
A charge in connection with a retail sale is taxable unless the charge for service is shown separately on the sales invoice and records.

Historical Note
Renumbered from R15-5-1815 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-106. Finance Charges in Connection with Retail Sales
Gross receipts from finance, carrying charges, or interest charges incurred in connection with a retail sale of tangible personal property shall not be taxable if:

1. The charges are separately stated as part of the sales transaction; and
2. The charges result from the sale of such property on credit or under an installment contract.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-107. Reserved

R15-5-108. Reserved

R15-5-109. Reserved

R15-5-110. Lease-purchase Agreements

A. Gross income derived from the leasing of tangible personal property under a lease-purchase agreement shall be taxable under the personal property rental classification.

B. Payments received after the conversion from a lease to a purchase are taxable under the retail classification.

C. Gross receipts from the sale of tangible personal property shall include conversion charges paid or incurred at the time the lease is converted to a purchase.

Historical Note
Renumbered from R15-5-1809 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-111. Consignment Sales

A. The following definitions apply for purposes of this rule:

1. "Consignee" is the party which is in the business of selling tangible personal property belonging to a "consignor."
2. "Consignor" is the party with the legal right to contract the services of the consignee to sell tangible personal property on behalf of the consignor.

B. Gross receipts from consignment sales are subject to tax under the retail classification.

C. A consignee shall obtain a transaction privilege tax license prior to engaging in the business of making consignment sales.

Historical Note
Renumbered from R15-5-1808 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-112. Sales by Auctioneers

A. Gross receipts from the sales of tangible personal property by an auctioneer are subject to tax under the retail classification.

B. An auctioneer shall obtain a transaction privilege tax license prior to conducting an auction.

Historical Note
Renumbered from R15-5-1834 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-113. Sales by Trustees, Receivers, and Assignees

A. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee shall be taxable if the sale of the property in the hands of the owner would have been taxable.

B. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee shall not be taxable if the sale of the property in the hand of the owner would have been exempt.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-114. Reserved

R15-5-115. Reserved

R15-5-116. Reserved

R15-5-117. Reserved

R15-5-118. Reserved

R15-5-119. Reserved

R15-5-120. Exempt Sales of Machinery or Equipment

A. Machinery or equipment used in manufacturing or processing includes machinery or equipment that constitutes the entire primary manufacturing or processing operation from the initial stage where actual processing begins through the completion of the finished end product, processing, finishing, or packaging of articles of commerce. Manufacturing is the performance as a business of an integrated series of operations which place tangible personal property in a form, composition, or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character, or use.

B. Gross receipts from the sale of repair or replacement parts for exempt machinery or equipment are not subject to the tax under the retail classification. Repair or replacement parts are defined as those individual component and constituent items which, together, comprise exempt machinery or equipment.

C. In establishing the exempt sale of machinery or equipment, the seller shall keep adequate documentation, pursuant to statutory requirements and as delineated in R15-5-2214, for the statutorily required period of time

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Renumbered from R15-5-1822 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-121. Sales of Fuel Used in Manufacturing
The sale of fuel used or consumed in a manufacturing process is taxable. The fuel is not considered to be incorporated into the manufactured product.

Historical Note
Renumbered from R15-5-1830 effective August 9, 1993 (Supp. 93-3).

R15-5-122. Articles Incorporated into a Manufactured Product

A. Sales of articles to be incorporated into a fabricated or manufactured product are considered to be sales for resale and, therefore, exempt. For example, the sale of wood to a furniture manufacturer is a sale for resale.

B. In order for the exemption to apply, the materials must actually become a part of the finished product. Supplies which are consumed in the manufacturing process do not qualify.

Historical Note
Renumbered from R15-5-1839 effective August 9, 1993 (Supp. 93-3).

R15-5-123. Sale of Tools and Supplies to Businesses
The sale of tools, supplies, and other articles to be used or consumed by persons in the operation of their businesses, and not for resale, are taxable as retail sales.

Historical Note
Renumbered from R15-5-1849 effective August 9, 1993 (Supp. 93-3).

R15-5-124. Reserved

R15-5-125. Reserved

R15-5-126. Manufacturing Labor
The cost of labor employed in manufacturing, processing, or fabricating tangible personal property shall not be allowed as a deduction from the gross receipts derived from a sale of such property.

Historical Note
Renumbered from R15-5-1848 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-127. Sales of Fuel
A. For purposes of this rule, "use fuel" means fuel other than motor vehicle fuel, as defined in A.R.S. § 28-101(28). Diesel fuel is a use fuel. Gasoline is a motor vehicle fuel.
B. Gross receipts from the sale of use fuel are taxable under the retail classification if the use fuel is not used to propel vehicles on the streets, roads, and highways of this state.
C. Retail sales of jet fuel are taxable under the jet fuel excise and use tax classification.

Historical Note
Renumbered from R15-5-3004 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-128. Electric Power Transmission and Distribution
A. Gross receipts from the sale of machinery, equipment, or transmission lines for direct use in a transmission system are deductible from the tax base. Gross receipts from the sale of machinery, equipment, or lines for use in a distribution system are taxable.
B. Machinery and equipment used to facilitate the production of voltage up to and including 34,500 volts shall be considered part of a distribution system.
1. Gross receipts from the sale of such equipment are subject to transaction privilege tax.
2. If tangible personal property was purchased as exempt, subsequent nonexempt use shall subject the gross purchase price to use tax according to statutory provisions.

C. Machinery and equipment used to facilitate the production of voltage above 34,500 volts shall be categorized as part of a transmission or distribution system based on the following definitions.
1. "Transmission system" means:
   a. All land, conversion structures, and equipment employed at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission;
   b. All land, structures, lines, switching and conversion stations, high tension apparatus and their control and protective equipment between a generating or receiving point and the entrance to a distribution center or wholesale point; and
   c. All lines and equipment whose primary purpose is to augment, integrate, or tie together the sources of power supply.
2. "Distribution system" means all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply and of delivery to customers, which are not includible in a transmission system whether or not such land, structures, and facilities are operated as part of a transmission system or as part of a distribution system. Stations which change electricity from transmission to distribution voltage shall be classified as distribution stations.
3. "Primary source of supply" means a generating station or point of receipt in the case of purchased power.
4. Dual-use equipment shall be designated as follows:
   a. If poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as a transmission system. The conductors, crossarms, braces, grounds, tiewire, insulators, and other similar tangible personal property shall be classified as transmission or distribution facilities, according to the purpose for which they are used.
   b. If underground conduit contains both transmission and distribution conductors, the underground conduit and the right-of-way shall be classified as a distribution system. The conductors shall be classified as transmission or distribution facilities according to the purpose for which they are used.
   c. Based on statutory provisions, transformers and control equipment utilized operationally at transmission substation sites are considered to be a part of a transmission system and, therefore, are exempt from transaction privilege and use tax.

D. Machinery, equipment, or transmission lines for direct use in a transmission system are only those which are recorded as being part of a transmission system in accordance with the definitions in subsection (C).
1. Gross receipts from the sale of such equipment are exempt from the tax.
2. If such machinery and equipment is removed from inventory to be used as part of a distribution system, the purchase price is subject to use tax.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-129. Discounts, Refunds, and Coupon Redemption
A. Cash discounts allowed the purchaser for timely payment are permissible as deductions from the sale price.
B. Refunds in cash or credit given on returned merchandise are considered to be a reduction of sales.
C. When coupons issued by a manufacturer are redeemed by a retailer the amounts refunded to the purchaser are not permissible as deductions from the selling price of articles sold by the retailer. In these cases, the gross selling price is taxable.
D. Coupons issued by a retailer and later redeemed by the retailer as a discount on the price of merchandise sold by him are considered a reduction of the selling price. In such cases the net selling price is subject to tax.

Historical Note
Renumbered from R15-5-1840 effective August 9, 1993 (Supp. 93-3).

R15-5-130. Reserved

R15-5-131. Lay-away Sales

Gross receipts from lay-away agreements shall be taxable when title or possession transfers to the purchaser or at the time receipts from the transaction are determined to be nonrefundable, whichever occurs first.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-132. Retail Sales with Trade-ins

A. When a retailer accepts tangible personal property as a trade-in for part or full payment on the sale of tangible personal property, the dollar amount of the payment represented by the trade-in is deductible from the retailer's gross receipts from that sale.
B. A trade-in deduction shall be limited to the amount of the retailer's gross receipts on that sale.
C. When the property traded in is subsequently sold at retail, the gross receipts from the transaction are taxable.

Historical Note
Renumbered from R15-5-1818 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-133. Delivery Charges in Connection with Retail Sales

A. A charge by a retailer for delivery from the retailer's location to the purchaser's location, if separately stated on the sales invoice, is not taxable.
B. When the freight cost is incurred any time prior to the time of the retail sale, such cost is part of the gross sale and, therefore, subject to the tax.

Historical Note
Renumbered from R15-5-1820 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-134. Sales of Containers, Bottles, and Labels

A. The sale of containers and bottles is considered a sale for resale only when the purchaser is to transfer the containers with their contents in future sales.
B. In cases where the containers are not subsequently sold as part of the merchandise, such sales are deemed to be taxable retail sales.
C. The sale of labels to a purchaser who affixes them to nonreturnable containers to be resold is considered to be a sale for resale and is not taxable.
D. In cases where the containers are returnable and a new label is to be affixed, each time the container is refilled, the sale of the labels is also considered to be a sale for resale.
E. The sale of analysis tags or other labels to be attached to containers of feed and sold along as part of the article is a sale for resale.
F. However, the sale of items such as price tags, shipping tags, and advertising matter used in connection with the subsequent sale is taxable as a retail sale.

Historical Note
Renumbered from R15-5-1829 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-135. Sales of Restaurant Accessories

A. Gross receipts from the sale of disposable containers, paper napkins, and other similar food accessories to persons engaged in the restaurant business, which are transferred by the restaurant in the ordinary course of business to facilitate the consumption of the food, drink, or condiment provided, shall be considered gross receipts from sales for resale.
B. Gross receipts from the sale of matchbooks, advertisement fliers, and other similar tangible personal property to persons engaged in the restaurant business that are transferred by the restaurant for the convenience, operation, or benefit of the restaurant business are taxable.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-136. Returnable Containers

A. Gross receipts from deposits on sales of returnable containers which contain taxable food shall be taxable.
B. Deposit refunds paid to purchasers on the return of such containers shall be deductible from the retailer's tax base in the month refunded.
C. Gross receipts from deposits received on returnable containers which contain non-taxable food shall not be taxable. Therefore refunds paid on such deposits shall not reduce the tax base.

Historical Note
Renumbered from R15-5-1833 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-137. Warranty or Service Contracts

A. For purposes of this rule, a "warranty or service provision" means a manufacturer's or vendor's warranty provision which automatically, and for no extra charge, applies to the tangible personal property when purchased.
B. Gross receipts from the sale of warranty or service contracts shall not be taxable if such contracts are sold as a distinct and separate item and the charge for the warranty or service contract is stated separately on the sales invoice.
C. A warranty or service provision shall not be considered a warranty or service contract under A.R.S. § 42-1310.01(A). An exclusion from gross receipts shall not be allowed for a warranty or service provision on the sale of tangible personal property when such property cannot be sold without the acceptance of the warranty or service provision.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-138. Tangible Personal Property Used in Conjunction with Warranty or Service Contracts

A. For purposes of this rule, "covered" tangible personal property is that property which is included in the charge for the warranty or service contract and the warranty or service contract holder is not additionally charged for such property.
B. Tangible personal property sold in conjunction with the servicing of a warranty or service contract, but not covered by such a contract, is a sale of tangible personal property and, as such, shall be subject to tax under the retail classification, unless statutorily exempt.
C. Tangible personal property which is covered under a warranty or service contract, and used in the servicing of such a contract, is subject to use tax unless transaction privilege tax was paid when the tangible personal property was acquired or unless otherwise statutorily exempt.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-139. Reserved

R15-5-140. Reserved

R15-5-141. Reserved

R15-5-142. Reserved

R15-5-143. Reserved

R15-5-144. Reserved

R15-5-145. Reserved

R15-5-146. Reserved

R15-5-147. Reserved

R15-5-148. Reserved

R15-5-149. Reserved

R15-5-150. Photography

A. The following definitions apply for purposes of this rule:
1. "Photographer" means a person who engages in the business of photography.
2. "Photography" means the operation of taking, developing, processing, or printing pictures, prints, or images on or from film, video, or other similar media.

B. Gross receipts derived from sales of photography by a photographer are taxable under the retail classification.

C. Developing of films and making of prints of pictures taken by others are taxable. Developing and printing for drugstores and other retailers are sales for resale.

Historical Note
Renumbered from R15-5-1836 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-151. Artists

A. Gross receipts from the sale of paintings, drawings, etchings, sculptures, craftwork, other artwork or reproductions of such items to final consumers shall be taxable under the retail classification if the person is making regular sales of these items.

B. Gross receipts from the sale of paints, canvasses, frames, sculpture ingredients, and other items which will become an integral part of the finished product shall not be taxable if sold to a creating artist who is regularly engaged in the business of creating and selling paintings, drawings, etchings, sculptures, craftwork, other artwork, or reproductions of such items. Sales of brushes, easels, tools, and similar items to be consumed by the creating artist shall be taxable.

C. Gross receipts from the sale by the creating artist of a painting, drawing, etching, sculpture, or a piece of craftwork that is not a reproduction of an original work shall not be taxable if:
1. The sale is a casual sale pursuant to the definition in R15-5-1812; or
2. The sale is of commissioned artwork by an individual artist. For purposes of this rule, "commissioned artwork" is a custom, one-of-a-kind art creation made by the individual artist pursuant to the particular requirements of a specific purchaser.

Historical Note
Adopted effective April 15, 1993 (Supp. 93-2). Section heading amended effective August 9, 1993 (Supp. 93-3).

Editor's Note: R15-5-1812, referenced in subsection (C)(1) above, was repealed. Please refer to R15-5-2001 for information about casual sales.

R15-5-152. Tangible Personal Property Used in Soil Remediation Activities

The gross receipts from the sale of tangible personal property incorporated or fabricated into any real property, structure, project, development or improvement under a contract specified in A.R.S. § 42-1310.16 (B)(6) are exempt from tax. The gross receipts from the sale of tangible personal property used in soil remediation activities but not incorporated or fabricated into any real property, structure, project, development or improvement are taxable.

Historical Note
Adopted effective December 11, 1998 (Supp. 98-4).

R15-5-153. Four-inch Pipes or Valves

Gross receipts from the sale of pipes, valves, or fire hydrants with an inside diameter of four inches or more are deductible from the tax base if the pipes, valves, or fire hydrants are to be used to transport oil, natural gas, artificial gas, water, or coal slurry.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-154. Data Processing Equipment and Software

A. Income from services rendered in whole or in part in connection with the sale of data processing equipment is exempt, including income from charges imposed for professional and technological services such as analysis, design, support engineering services, classroom instruction and data conversion services.

B. Income from the multiple use of data processing equipment where no single customer has exclusive use of the equipment for a fixed period of time, or where the customer does not exclusively control all manual operations necessary to operate the equipment is nontaxable service income.

C. Except as provided in subsection (D), the gross receipts derived from the sale of electronic data processing programs are taxable.

D. The gross receipts derived from charges imposed for the original creation of an electronic data processing program or the modification of a canned electronic data processing program for the specific use of an individual customer are nontaxable service activities.

E. When income is received from both the sale of tangible personal property and exempt services, the charges for each shall be separately stated on billings and invoices or otherwise clearly reflected in the books and records of the taxpayer. If not so separately stated, the gross income from such transactions is taxable.

Historical Note
Renumbered from R15-5-1853 effective August 9, 1993 (Supp. 93-3).

R15-5-155. Reserved

R15-5-156. Sales of Prescription Drugs and Prosthetic Appliances

A. For purposes of this rule, the following definitions apply:
1. "Drugs on a prescription" means those substances which can only be dispensed on the direction of a member of the medical, dental, or veterinary profession, who is licensed by law to administer such drugs, and which cannot be purchased without such authorization. A legend drug is considered a drug on a prescription.
2. "Hearing aid" means any wearable device designed for aiding or compensating for defective human hearing including parts, attachments, accessories, and earmolds.
3. A "legend drug" is a drug which bears the statement *CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT PRESCRIPTION.*
4. "Nonprescription drugs" means a substance which can be purchased without a prescription even though recommended by a member of the medical, dental, or veterinarian profession.
5. "Prescription drugs" are drugs on a prescription.
6. "Prescription eyeglasses" includes frames and component parts if purchased for use with prescription lenses.
7. "Prosthetic appliance" means an artificial device which fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.

B. Gross receipts from sales of the following items are deductible from the tax base:

1. Drugs on a prescription.
2. Medical oxygen, pursuant to statute.
3. Insulin, insulin syringes, and glucose strips whether or not prescribed.
4. Prosthetic appliances prescribed or recommended by a statutorily authorized individual.
5. Durable medical equipment, pursuant to statute.
6. Prescription eyeglasses and contact lenses.
7. Hearing aids. Batteries and cords do not qualify as exempt.

C. Unless otherwise stated, the sale of component and repair parts for any property included in this rule is not taxable.

D. If a prescription or recommendation is required to purchase the tangible personal property, the required prescription or recommendation shall be in writing and shall be maintained as part of the vendor's records.

E. Gross receipts from the sale of nonprescription drugs and other medical supplies to doctors, dentists, or veterinarians are taxable unless otherwise exempt.

1. Gross receipts from the sale of nonprescription drugs and other medical supplies to doctors, dentists, and veterinarians are not taxable if the tangible personal property qualifies as a sale for resale and the doctor, dentists, or veterinarian is a retailer in the business of reselling such property.
2. Gross receipts from the sale of prescription drugs, for use in the course of treating patients, are not taxable if the prescription drugs are sold to a doctor, dentist, or veterinarian who is licensed by law to administer prescription drugs.
3. Gross receipts from the sale of prescription drugs are not taxable if the prescription drugs are sold to an organization where the prescription drugs are used in the course of treating patients and are administered under the direction of a doctor, dentist, or veterinarian who is licensed by law to administer such drugs.

Historical Note
Renumbered from R15-5-1819 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-157. Membership Fees

A. Membership, admission, or other fees charged by a limited-access retail business shall be considered part of the taxable gross income of the business activity.

B. For purposes of this rule, "a limited-access retail business" means a business which does not sell to the general public but which charges a membership fee or a membership due in order to obtain access to the business or to obtain discounts or preferential treatment in the purchase or rental of tangible personal property from or through the business.

C. Gross income shall not include separately billed amounts paid to secure ownership interests or rights in the business which can be transferred or assigned.

Historical Note
Renumbered from R15-5-3036 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-158. Postage Stamps

A. A retailer's gross receipts from the sale of postage stamps are not included in the tax base under the retail classification if the stamps are sold for the purpose of transporting mail.

B. A retailer's gross receipts from the sale of postage stamps are included in the tax base under the retail classification if the stamps are sold for any purpose other than transporting mail.

C. The Department shall presume that a postage stamp is sold for a purpose other than transporting mail if the postage stamp is sold for at least 50% more than its face value. A retailer may overcome the presumption; however, the burden of proof will remain on the retailer.

D. A retailer's gross receipts from the sale of cancelled postage stamps are included in the tax base under the retail classification.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 4112, effective October 4, 2000 (Supp. 00-4).

R15-5-159. Reserved

R15-5-160. Reserved

R15-5-161. Reserved

R15-5-162. Reserved

R15-5-163. Reserved

R15-5-164. Reserved

R15-5-165. Reserved

R15-5-166. Reserved

R15-5-167. Reserved

R15-5-168. Reserved

R15-5-169. Reserved

R15-5-170. Interstate and Foreign Transactions

A. Gross receipts from sales of tangible personal property made in interstate or foreign commerce are deductible from the tax base if all of the following apply:

1. The order is received from a location outside of Arizona; and
2. The retailer ships or delivers the tangible personal property to a location outside of Arizona for use outside of Arizona.

B. In meeting the above requirements, if delivery is made by the retailer to a common carrier for transportation to a location outside Arizona, the common carrier is deemed to be the agent of the retailer for purposes of this rule regardless of who is responsible for payment of the freight charges.

C. Suitable records shall be kept to substantiate the deduction for a sale made in interstate commerce. As such, records shall identify the tangible personal property sold and the delivery destination. The following records may be sufficient to substantiate the exemption:

1. Suitable records for substantiating the receipt of an order from out-of-state may include purchase orders, letters, or written memoranda on the receipt of orders placed by telephone.
2. Suitable records for substantiating out-of-state shipments include:
   a. Internal delivery orders supported by receipts of expenses incurred in delivering the property and signed on the delivery date by the person who delivers the property;
   b. Common carrier's receipt or bill of lading;
   c. Parcel post receipt;
   d. Export declaration;
   e. Receipt from a licensed broker; or
   f. Proof of export or import signed by a customs officer.

Historical Note
Renumbered from R15-5-1814 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-171. Sales to a Common Carrier
Gross receipts from sales made to a common carrier, engaged in interstate business, for delivery by the common carrier to a location outside of Arizona and for use outside of Arizona shall not be taxable if the order is received from a location outside of Arizona and the Arizona retailer prepays the freight charge.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-172. Sales by Florists
A. Gross receipts from sales made by florists are taxable. Delivery and relay or transmittal charges, when separately stated, are deductible from the tax base.
B. Orders received by an Arizona florist from an out-of-state customer for delivery within Arizona are taxable. Orders received by an Arizona florist by an out-of-state customer for delivery out-of-state are not taxable.
C. When the florist conducts transactions through a delivery association, the following shall apply:
1. Gross receipts from sales made by an Arizona florist, where the order is subsequently transmitted to another florist for filling and delivery, whether inside or outside of Arizona, are taxable.
2. Gross receipts from sales by Arizona florists who deliver from a transmitted order of another florist, whether the ordering florist is inside or outside of Arizona, are not taxable.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-173. Sales of Property Subsequently Taken Out-of-state
Gross receipts from sales of tangible personal property by Arizona vendors made to purchasers who subsequently take the property out-of-state do not qualify as exempt unless otherwise specifically exempted by statute.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-174. Sales to Non-U.S. Citizens
Gross receipts from sales to non-U.S. citizens are subject to the tax unless otherwise exempt.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-175. Sales to Nonresidents Temporarily Within this State
A. For purposes of this rule, "nonresident" means:
1. An individual who is not a resident for Arizona income tax purposes; or
2. An entity which has no business location or business nexus in Arizona.
B. Gross receipts from the sale of tangible personal property to a nonresident of Arizona who is temporarily within this state are exempt from the tax if:
1. The vendor ships or delivers the tangible personal property out of this state by common carrier, United States mail, or the vendor's own conveyance; and
2. The tangible personal property is not used in Arizona.
C. To substantiate the exemption for a sale to a nonresident temporarily within the state, the vendor shall obtain a completed exemption certificate or a written statement from such a buyer certifying that the buyer is not a resident of Arizona and that the property purchased is for use outside of Arizona.
1. Such a statement or certificate shall be maintained as part of the records of the vendor for the required statutory period.
2. The vendor may use the exemption certificate prescribed by the Department.
D. Suitable records, as delineated in R15-5-170, shall be kept by the vendor to establish out-of-state shipments.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-176. Expired

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2012, effective March 31, 2001 (Supp. 01-2).

R15-5-177. Reserved

R15-5-178. Reserved

R15-5-179. Reserved

R15-5-180. Sales by Businesses in Federal Areas
Gross receipts from sales by businesses which are not operated by or as an agency of the Federal Government, located on military bases or other federal areas, are taxable.

Historical Note
Renumbered from R15-5-1825 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-181. Governmental Organizations
A. Gross receipts from the sale of tangible personal property to the state or its political subdivisions are taxable unless otherwise exempt. Gross receipts from the sale of tangible personal property to the Federal Government or its departments and agencies are taxable at the rate prescribed by statute, unless otherwise exempt.
B. Gross receipts from the sale of tangible personal property by the state or its political subdivisions, when acting in a proprietary capacity, are taxable unless otherwise exempt.
C. Gross receipts from the sale of tangible personal property by the Federal Government are not taxable.

Historical Note
Renumbered from R15-5-1803 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-182. Nonprofit Organizations
A. Gross receipts from the sale of tangible personal property to nonprofit churches, schools, and other nonprofit organizations are taxable unless otherwise exempt.
B. Gross receipts from the sale of tangible personal property by a charitable nonprofit organization, recognized as such for income tax purposes by the Internal Revenue Service and the Department, are not taxable.
C. If an organization wishes to obtain tax-exempt status by being recognized by the Department as a nonprofit charitable organization, it shall submit a letter to the Department requesting tax-exempt status and shall include a copy of its Internal Revenue Service recognition as such an organization.
D. For purposes of the statutory exemption and this rule, the Internal Revenue Service recognition of a charitable nonprofit organization is defined in Internal Revenue Code § 501(c)(3).

Historical Note
Renumbered from R15-5-1804 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-183. Exempt Sales to Health Organizations

A. Gross receipts from the sale of tangible personal property to qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers are exempt from tax if such purchases are exempt from tax pursuant to statutory provisions.

B. The Department may, upon review of the written request and any other information requested by the Department to make a proper determination, provide an Exemption Letter to organization meeting the statutory criteria. The Exemption Letter shall be valid for a period of 12 months from the first day of the month following the issue date of the Exemption Letter unless the organization's tax exempt status changes prior to the end of the 12-month period, or the organization misrepresented or omitted material information in its exemption request.

C. Qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers shall annually submit to the Department a written request for an Exemption Letter. The request shall be submitted at least 30 days prior to the first day of the exemption period. For purposes of this rule, "exemption period" means the 12-month period beginning on the first day of the month following the issue date of the Exemption Letter or the 12-month period requested by the organization.

1. Qualifying hospitals shall attach to their annual exemption request a copy of their current license issued by the Department of Health Services.
2. Qualifying health care organizations shall attach to their exemption request letter the statutorily required annual financial audit and a copy of their Internal Revenue Code 501(c) recognition unless the Department has previously received a copy of this recognition.
3. Rehabilitation programs for mentally or physically handicapped persons shall attach to their exemption request a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.
4. Qualifying community health centers shall attach to their exemption request documentation supporting the statutory criteria and a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.

Historical Note
Renumbered from R15-5-1821 and amended effective August 9, 1993 (Supp. 93-3). Amended effective April 21, 1995 (Supp. 95-2).

ARTICLE 2. INTRODUCTION

R15-5-201. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-202. Renumbered

Historical Note
Section R15-5-202 renumbered to R15-5-2001 effective October 14, 1993 (Supp. 93-4).

R15-5-203. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-204. Renumbered

Historical Note
Section R15-5-204 renumbered to R15-5-2002 effective October 14, 1993 (Supp. 93-4).

R15-5-205. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-206. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-207. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-208. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-209. Repealed

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Amended effective March 18, 1981 (Supp. 81-2). Renumbered as Section R15-5-3023 effective August 26, 1987 (Supp. 87-3). Renumbered and amended in error; Section R15-5-209 is reprinted herewith as it was amended effective March 18, 1981 (Supp. 88-3). Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-210. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-211. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-212. Renumbered

Historical Note
Emergency rule adopted effective April 10, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; emergency rule readopted with changes effective June 18, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency rule readopted with changes effective September 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Permanent rule adopted with changes effective December 14, 1990 (Supp. 90-4). Renumbered to Section R15-5-2215 effective October 14, 1993 (Supp. 93-4).

ARTICLE 3. REPEALED

R15-5-301. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-302. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-303. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-304. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-305. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-306. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-307. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 4. AMUSEMENT CLASSIFICATION

R15-5-401. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-402. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-403. Amusement Devices
Gross proceeds of sales or gross income from the operation of coin-operated and other devices which provide amusement are included in the tax base under the amusement classification. Examples of such devices include: devices that play prerecorded music, electronic games, pinball games, and billiard tables.

1. The tax base from the business of operating amusement devices is the gross amount received from the amusement devices without deduction for commissions paid, rental cost for the equipment, or other expenses.
2. The individual having direct control of the funds generated by the amusement devices shall pay the tax to the Department.

Historical Note
Amended effective September 22, 1997 (Supp. 97-3).

R15-5-404. Other Income
Gross receipts from the sale of programs, souvenirs, or any other items of tangible personal property are included in the tax base under the retail classification.

Historical Note
Amended effective April 21, 1995 (Supp. 95-2).
Amended effective September 22, 1997 (Supp. 97-3).

R15-5-405. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-406. Health or Fitness Establishments and Private Recreational Establishments

A. The operator of a "health or fitness establishment" or a "private recreational establishment," as defined in A.R.S. § 42-1310.13(C), shall exclude from the tax base under the amusement classification all gross proceeds of sales or gross income from membership fees and initiation fees which provide for the right to use the establishment, or any portion of the establishment, for 28 days or more, and fees charged for the use of the establishment by bona fide accompanied guests of members. Any other fees for the use of health or fitness establishment or a private recreational establishment, or any portion of such an establishment, are included in the tax base of the amusement classification.

B. The Department shall not consider the gross proceeds of sales or gross income derived from other businesses that are on the premises of a health, fitness, or recreational business when determining whether a health, fitness, or recreational business meets the qualifications of a "health or fitness establishment" or a "private recreational establishment" if the other businesses are separate and independent from the health, fitness, or recreational business. Whether the other businesses are separate and independent depends upon the facts in each case. The Department considers several factors in making this determination including but not limited to the following:

1. Whether the business is open to both members and nonmembers;
2. Whether the primary purpose of the business is closely related to the primary purpose of the health, fitness, or recreational business;
3. Whether the business could exist without the health, fitness, or recreational business;
4. Whether the business shares assets or employees with the health, fitness, or recreational business.

Historical Note
Amended effective September 22, 1997 (Supp. 97-3).

R15-5-407. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-408. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-409. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 5. REPEALED

R15-5-501. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-502. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-503. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-504. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-505. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-506. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 6. PRIME CONTRACTING CLASSIFICATION

R15-5-601. Taxpayer Bonds for Contractors

A. For the purpose of this rule:

1. The principal place of business shall be Arizona if the licensee has continuously operated a facility with at least one full-time employee in Arizona for 12 consecutive months preceding the determination.
2. A surety bond shall include a bond issued by a company authorized to execute and write bonds in Arizona as a surety or composed of securities or cash which are deposited with the Department of Revenue.

B. The businesses subject to these bonds are grouped in accordance with the standard industry classifications by average business activity. The business classes and bond amounts are as follows:

1. Two thousand dollars for:
   a. General contractors of residential buildings other than single family;
   b. Operative builders;
   c. Plumbing, air conditioning, and heating, except electric;
   d. Painting, paper hanging;
   e. Decorating;
   f. Electrical work;
   g. Masonry stonework and other stonework;
   h. Plastering, drywall, acoustical and insulation work;
   i. Terrazzo, tile, marble and mosaic work;
   j. Carpentry;
   k. Floor laying and other floor work;
   l. Roofing and sheet metal work;
   m. Concrete work;
   n. Water well drilling;
   o. Structural steel erection;
   p. Glass and glazing work;
   q. Excavating and foundation work;
   r. Wrecking and demolition work;
   s. Installation and erection of building equipment;
   t. Special trade contractors; and
   u. Manufacturers of mobile homes.
2. Seven thousand dollars for:
   a. General contractors of single family housing;
   b. Water, sewer, pipeline, communication and power-line construction.
3. Seventeen thousand dollars for:
   a. General contractors of industrial buildings and warehouses;
   b. General contractors nonresidential buildings other than single family;
   c. Highways and street construction except elevated highways.
4. Twenty-two thousand dollars for heavy construction.
5. One-hundred two thousand dollars for bridge, tunnel and elevated highway construction.

C. Except as provided in subsection (D) of this rule, any applicant whose principal place of business is outside Arizona or who has conducted business in Arizona for less than one year shall post a bond before the transaction privilege tax license shall be issued.

D. Any taxpayer subject to bonding requirements may submit a written request to the Director of the Department of Revenue for an exemption from the bond. The exemption request shall provide at least one of the following:

1. Any taxpayer who has been actively engaged in business for at least two years immediately preceding the exemption request may submit statements from an authorized state employee from each state in which the business has been licensed in the last two years verifying that the taxpayer has, for at least two years immediately preceding the date of the statement, made timely payment of all sales taxes and other transaction privilege taxes incurred.
2. Two-year reporting history as described above in subsection (D)(1) and an explanation of good cause for late or insufficient payment of the tax;
3. Documentation which verifies that no potential for Arizona tax liability exists;
4. Bond for a previously issued Arizona transaction privilege license that adequately covers the licensee's expected transaction privilege tax liability for Arizona for both the previously issued license and for this license.

E. The bond shall not expire prior to two years after the transaction privilege license is issued. Upon lapse or forfeiture of any bond by any licensee, the licensee shall deposit with the Department another bond within five business days of the licensee's receipt of written notification by the Department.

F. Any licensee, who has had a bond posted for at least two years and fulfills any exception listed in subsection (D), or whose principal place of business becomes Arizona, may request a written waiver and that the bond be returned.

Historical Note
Former Section R15-5-601 repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-601 renumbered from R15-10-202 (Supp. 94-1).

R15-5-602. General

A. The tax under this classification is imposed upon the gross income derived from the contracting activity.

B. Contracts executed by contractors before 6/1/74 are taxed at the combined rate of 3% rather than 4%.

C. Effective January 1, 1979, only prime contractors are liable for the tax imposed under this classification. This provision applies only to contracts entered into after December 31, 1978. For purposes of this rule, every person engaging in a contracting activity is considered to be a prime contractor unless it can be demonstrated to the satisfaction of the Department that he is not a prime contractor as determined by the definitions contained herein.

1. Subcontractors are exempt provided that such persons are not acting in the capacity of prime contractors. A subcontractor is considered to be a prime contractor, and therefore liable for the tax, if:
   a. Work is performed for and payments are received from an owner-builder.
   b. Work is performed for and payments are received from an owner or lessee of real property.
2. Subcontractors who enter into contracts or agreements with a general contractor or any other contractor carrying out the provisions of a contract entered into prior to January 1, 1979, are taxable under the regulatory provisions effective for the period prior to January 1, 1979, regardless of the dates of such agreements or contracts.
3. An owner-builder shall not be liable for the tax imposed on the contracting activity if Sales Tax has been paid on the materials purchased for incorporation into the construction. If, however, an owner-builder has not paid for the Sales Tax on such materials at the time of purchase he shall be liable to the Department for the tax on the purchase price of the materials so used. An owner-builder who sells real property which he has improved at any time on or before the expiration of twenty-four months after the improvement is completed to a condition suitable for the use or occupancy intended shall be treated as a prime contractor.

D. Every person engaging in the business of prime contracting within this state shall present to the purchaser of such contract-

ing a written receipt of the gross income received from contracts entered into after December 31, 1978, and shall separately state the charge made for the taxes imposed under this classification.

E. All persons engaging in the business of contracting are required to obtain a Sales Tax license and to file reports on a basis to be determined by the Department whether or not any tax is payable.

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Correction, subsection (C), paragraph (2) as filed effective November 7, 1978, unless otherwise noted (Supp. 82-1).

R15-5-603. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-604. Contracts with government agencies
Construction projects performed for the United States Government, state, cities, counties, or any agencies thereof, are taxable.

R15-5-605. Contracts with schools, churches, and other nonprofit organizations
Construction projects performed for a school, church, or other nonprofit organization, are subject to the tax.

R15-5-606. Land Clearing and Well Drilling

A. A person engaged in the business of leveling, ditching, well drilling, installing pumps in wells, and original land clearing for others is taxable under the prime contracting classification.

B. The installation of groundwater measuring devices required under A.R.S. § 45-604 and groundwater monitoring wells required by law is not taxable.

C. The excavation, removal, and transportation of contaminated soil and the treatment or disposal of the contaminated soil is not taxable.

D. The installation of structures, such as cutoff walls or caps, to contain contaminants present in ground water or soil and prevent the contaminants from reaching a location which could threaten human health or welfare or the environment is not taxable.

E. Agricultural production on improved farm lands is not taxable.

1. Agricultural production includes the following activities:
   a. Cultivating,
   b. Disking,
   c. Planting,
   d. Plowing,
   e. Seeding, and
   f. Any other activity that directly relates to the production of crops on improved farm lands.
2. Agricultural production does not include the following activities:
   a. Installation or repair of drainage or irrigation delivery systems,
   b. Construction or repair of farm buildings or structures, or
   c. Any other activity which is not directly related to the production of crops on improved farm land.

Historical Note
Amended effective December 11, 1998 (Supp. 98-4).

R15-5-607. Termite Control
A person engaged in the business of treating real property for termite control is subject to tax under the prime contracting classification.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).
Amended effective December 11, 1998 (Supp. 98-4).

R15-5-608. Installation of equipment

A. Installation of equipment which becomes permanently attached in a plant or other structure is taxable as a contracting activity.

B. If in the performance of a contract a contractor provides and installs machinery and equipment otherwise exempt, no deduction may be claimed for such machinery or equipment. In any case, the income from the installation of exempt machinery and equipment is taxable.

C. When a contract between a builder and owner contains an agency agreement authorizing the builder to purchase exempt machinery and equipment for the account of the owner, the cost of such equipment is not deemed to be contracting income, even though it is installed by the builder.

D. Effective July 21, 1979, income from a contract, or that portion of a total contract, providing for installation and sale of solar energy devices is exempt from the tax under this classification. When a prime contractor, himself or through others, provides and installs a solar energy device, as a part of a total contract, he shall exclude from his gross income or gross proceeds of sale the total selling price of the solar energy device. The total selling price of the solar energy device shall include the cost of material and installation labor and, in addition, an appropriate portion of the overhead and reasonable profit.

E. The solar energy device exemption shall expire on December 31, 1989.

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Amended by adding subsections (D) and (E) effective March 18, 1981 (Supp. 81-2).

R15-5-609. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-610. Repealed

Historical Note
Former Section 15-5-610 repealed, new Section R15-5-610 adopted effective March 18, 1981 (Supp. 81-2). Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-611. Repealed

Historical Note
Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-612. Shovel, crane, backhoe, and concrete pumpers

A. Shovel, and backhoe operations, when provided with an operator, are taxable as contracting activities. Persons engaged in such activities are subject to tax as subcontractors as specified in R15-5-602. When such equipment is provided without an operator, the transaction is taxed as rental of personal property (see Article 15).

B. Income from crane and concrete pumping activities, provided with or without operators, is taxable as rental of personal property (see Article 15).

Historical Note
Amended effective November 7, 1978 (Supp. 78-6).

R15-5-613. Carpet installation

A. The sale and installation of all floor covering which is affixed to real property is subject to tax under the contracting activity. Persons engaged in such activities are subject to tax as subcontractors as specified in R15-5-602.

B. The sale and installation of floor covering attached to tangible personal property such as motor homes, boats, and travel trailers is taxable as a retail transaction (see Article 18).

Historical Note
Amended effective November 7, 1978 (Supp. 78-6).

R15-5-614. Distinction between contracting, retail and service activities
In order to distinguish between transactions taxed as a contracting activity rather than a retail one, the following examples are given. The governing factor is whether or not property or material is replaced in the original or existing structure, or if new materials are added.

1. Examples of contracting activities include the installation of a central air conditioning system, the replacement of an air conditioning unit, water heater, electrical wiring, roof, plumbing, landscaping; the installation of a soft water system, remodeling of a kitchen, and the installation of new appliances, wallpaper, and other fixtures.
2. Those activities taxed as retail activities consist of repairs in which the materials furnished are not incorporated into the structure. Examples: recharging refrigeration units with freon, replacement of washers in plumbing.
3. Nontaxable services include carpet cleaning, waxing and polishing, duct cleaning, lawn mowing and garden maintenance.

Historical Note
Amended effective November 7, 1978 (Supp. 78-6).

R15-5-615. Public address communication systems
Public address, communication, intercommunication, and security alarm systems installed in a structure by a contractor are taxable.

R15-5-616. Installation of cabinets
A. A cabinetmaker who constructs and installs cabinets is taxable on his gross income as a prime contractor under A.R.S. § 42-1308.
B. When a cabinetmaker acts as a subcontractor under A.R.S. § 42-1308, the activity is nontaxable.
C. A cabinetmaker who merely constructs and delivers cabinets to a contractor without installing such cabinets is deemed to be making a sale for resale, which is not taxable.
D. Construction and sale of cabinets to a final consumer without installation is a retail transaction taxable under A.R.S. § 42-1315.

Historical Note
Amended effective June 18, 1987 (Supp. 87-2).

R15-5-617. Basis of reporting
A. Contractors shall report on a progressive billing basis or cash receipts basis.
B. Unused portions of allowable deductions may be carried forward to succeeding months.
C. Home builders, speculative or otherwise, shall report as income the total selling price at the time of closing of escrow or transfer of title. Deductions pertaining to this income may not be taken prior to the time the gross income is reported.

R15-5-618. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-619. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-620. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-621. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-622. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-623. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-624. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-625. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-626. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-627. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-628. Exploratory drilling
Exploratory drilling, such as core drilling for purposes of testing, is not considered to be a contracting activity.

Historical Note
Adopted effective November 7, 1978 (Supp. 78-6).

R15-5-629. Contracts with hospitals and health service organizations
A. Income from construction contracts with hospitals and other health service organizations is subject to the tax.
B. When a contract between a builder and a qualified exempt hospital contains an agency agreement authorizing the builder to purchase tangible personal property for the account of the hospital, the cost of such property is not deemed to be contracting income, even though it is installed or incorporated into the construction project. Effective January 1, 1978, this agency agreement provision includes contracts made with qualified health service organizations (see R15-5-1821).

Historical Note
Adopted effective November 7, 1978, unless otherwise noted (Supp. 78-6).

ARTICLE 7. REPEALED

R15-5-701. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-702. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-703. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-704. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 8. REPEALED

R15-5-801. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-802. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-803. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-804. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 9. MINING CLASSIFICATION

R15-5-901. Definitions
In addition to the definitions provided in A.R.S. § 42-5001, the following definitions apply to this Article:

1. "Mining" means operations involving the extraction of nonmetalliferous mineral products from beneath or at the surface of the earth for commercial use and includes underground, surface, and open-pit operations.
2. "Nonmetalliferous mineral product" has the same meaning as prescribed in A.R.S. § 42-5072.

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-901 renumbered from R15-5-903 and amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-902. General

A. A person engaged in the business of mining is subject to tax under the mining classification on the gross proceeds of sales or gross income received from the sale of a nonmetalliferous mineral product to a purchaser that resells the product in the ordinary course of business.

B. A person engaged in the business of mining is not subject to tax under the mining classification on the gross proceeds of sales or gross income received from the sale of a nonmetalliferous mineral product to a person engaged in business classified under the prime contracting classification if the nonmetalliferous mineral product is to be incorporated into a structure or project as part of the business.

C. A person engaged in the business of mining is subject to tax under the retail classification on the gross income received from the sale of a nonmetalliferous mineral product to a final consumer.

D. A person engaged in the business of mining shall not deduct from the tax base amounts paid as royalties.

Historical Note
Amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-903. Renumbered

Historical Note
Section R15-5-903 renumbered to R15-5-901 by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-904. Manufacturing or Processing Service Charges

A. A person engaged in the business of mining is subject to tax on the gross proceeds of sales or gross income from refining petroleum products, producing a combination of nonmetalliferous mineral products, as well as other manufacturing or processing service charges derived from contracts with the owner of the products.

B. A person who mines and processes nonmetalliferous mineral products is subject to tax on the gross proceeds of sales or gross income from the sale of the first marketable product. For example, a person who mines clay and processes the material into bricks is taxable on the gross proceeds of sales or gross income from the sale of the bricks.

Historical Note
Amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-905. Products Shipped Out of Arizona

A. A person engaged in the business of mining that ships a nonmetalliferous mineral product out-of-state without making a sale in Arizona shall include in the tax base the market value of the nonmetalliferous mineral product before it enters interstate commerce.

B. Unless otherwise provided in subsection (D), the taxpayer shall calculate the market value of a nonmetalliferous mineral product shipped out-of-state in the following manner:

1. Establish the total selling price of the product outside Arizona.
2. Deduct, from the total selling price, costs incurred out-of-state that increase the value of the product. These costs include:
   a. The cost of actual freight paid, as provided in R15-5-908, to the point of sale outside Arizona;
   b. The refining or processing cost incurred before the first sale; and
   c. The cost of sales commissions, paid or accrued, in connection with the sale.

C. The market value of the product shipped out-of-state shall not include the cost of processing if the processor has paid the Arizona transaction privilege tax on the gross proceeds of sales or gross income derived from the processing. (See R15-5-904.)

D. A taxpayer may compute the market value of a nonmetalliferous mineral product shipped out-of-state in any manner that accurately reflects the value of the nonmetalliferous mineral product at the point it enters interstate commerce if the taxpayer gives prior written notification to the Department and the Department approves the computation method.

Historical Note
Amended effective March 18, 1981 (Supp. 81-2). Amended effective June 18, 1987 (Supp. 87-2). Amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-906. Repealed

Historical Note
Section repealed by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-907. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-908. Actual Freight Paid

A. A person engaged in the business of mining may deduct from the tax base under the mining classification actual freight costs incurred in connection with the sale that are included in the sales price if the actual freight costs incurred are separately stated in the billing to its customer.

B. A person engaged in the business of mining that does not separately state the actual freight costs incurred in the billing to the customer may still deduct the actual freight costs paid to a third party, provided the person keeps books and records to show separately the actual freight paid to the third party.

C. A taxpayer shall not deduct the cost incurred by the taxpayer before a sale for freight from the mining or production location to the sales location.

Historical Note
Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-909. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 10. TRANSACTION PRIVILEGE TAX -- TRANSIENT LODGING CLASSIFICATION

R15-5-1001. Application of the Definition of Transient for Purposes of Taxation under the Transient Lodging Classification

A. Effective January 1, 1979, the leasing or renting of dwelling units and lodging facilities to a person shall not be taxable under the transient lodging classification if the lodging is obtained for a continuous block of time for 30 or more consecutive days except as provided under A.R.S. § 42-1310.10(B). For purposes of this rule, "person" has the same meaning as under A.R.S. § 42-1301.

B. Gross receipts from providing lodging obtained for a continuous block of time for 30 or more consecutive days shall not be taxable under the transient lodging classification from the first day of occupancy.

1. Lodging obtained for 30 or more consecutive days in increments of time for a period of less than 30 consecutive days rather than for a continuous block of time shall be taxable under the transient lodging classification except as provided under A.R.S. § 42-1310.10(B).
2. A lodger may originally acquire lodging on an incremental basis for a period of less than 30 consecutive days and subsequently change to a continuous block of time for 30 or more consecutive days; however, the lodging originally obtained on an incremental basis of less than 30 consecutive days shall remain subject to tax regardless of any subsequent action on the part of the lodger.

C. If lodging is obtained on a continuous basis for 30 or more consecutive days but the person obtaining the lodging leaves before the 30-day period ends and only pays for a period of 29 days or less, the exclusion shall not apply. The gross receipts from providing lodging for 29 days or less shall be subject to tax under the transient lodging classification.

D. The following situations are indicative of the application of the provisions in this rule:

1. A person rents a motel room on a weekly basis for 10 consecutive weeks. The total rental period is greater than 30 consecutive days; however, the method of renting by the week meets the definition of "transient." Gross receipts from renting lodging space on such a basis are subject to tax under the transient lodging classification.
2. A motion picture company contracts with a hotel to rent a block of 15 rooms for a three-month period during which filming will occur in the area. During that three-month period, a variety of crew members and actors will occupy the rooms. Any one room may have a different occupant during the three-month time period as filming progresses and different actors or crew members are involved in the production of the film. The rental by the motion picture company for the three-month period is not subject to tax under the transient lodging classification since the motion picture company contracted with the hotel to rent for a three-month period and, therefore, does not meet the definition of a transient.
3. An individual reserves a room in a rooming house for two weeks. The individual decides to stay another two weeks. The total number of days' stay is now at 28 days. Once again, the individual extends the stay by two weeks. Each time period is less than 30 days. Even though the total period of time is over 29 days, after the third extension of two weeks, the individual continues to be a transient for purposes of taxation under the transient lodging classification. If the individual had rented the room for 30 days or more after the first two weeks, gross receipts from the additional time would not be subject to tax. However, the first two-week block of time would remain taxable since that time period falls under the definition of transient.
4. An individual is not sure how long he will be staying at a hotel so, upon registration, gets the room for 35 days. After 21 days the individual decides to leave and pays only for the 21-day stay. Gross receipts are subject to tax under the transient lodging classification. If the individual had a contractual agreement in which, regardless of length of occupancy, he was required to pay for the entire 35 days, the gross receipts from such a transaction would not be taxable.

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-1001 renumbered from R15-5-1614 (Supp. 94-2). Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1002. Activities in Addition to Providing Lodging

A. If a transient lodging facility is engaged in the business of providing lodging and engages in the business of providing meals, the gross receipts from lodging shall be separately stated and reported from the gross receipts from restaurant activities.

B. Gross receipts from the providing of meals or room service shall be subject to tax under the restaurant classification.

C. Gross receipts from the sale of tangible personal property by transient lodging facilities such as from magazine stands, gift shops, or in-room food or beverage bars shall be subject to tax under the retail classification.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-1002 renumbered from R15-5-1615 (Supp. 94-2). Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1003. Providing Lodging to Government Agencies

Gross receipts from providing transient lodging to the United States Government, the state or its political subdivisions, or any other government agency or its employees shall be taxable under the transient lodging classification unless otherwise exempt.

Historical Note
Adopted effective April 21, 1995 (Supp. 95-2).

ARTICLE 11. SALES TAX -- PRINTING CLASSIFICATION

R15-5-1101. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1102. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1103. Examples of printed articles
The printing or other reproduction of books, periodicals, magazines, business or professional stationery, and of any other articles copied or reproduced by printers, engravers, embossers, or copiers, is included under this classification.

R15-5-1104. Definitions
A printer is defined as any person who copies or reproduces an article by any means, process, or method. A printer is subject to the tax, even though conducting the actual printing outside the state, unless the end product is sold outside the state to out-of-state purchasers. Examples include: multigraphing, lithographing, photostating, multilithing, and other similar means of duplicating.

R15-5-1105. Printing facilities located out of state
A printer in this state is subject to the tax on his income from sales within this state even though the printing or reproduction equipment is located in another state.

R15-5-1106. Sale of materials
A. The income from sales made by a job printer of materials on which no printing or other reproduction is done is subject to tax under the retail classification (see Article 18).
B. The sale of articles which do not become a part of the printed or reproduced item is subject to tax under the retail classification (see Article 18) when sold to a user or consumer. Examples of such articles include: electrotypes, color process plates, and wood mounts.

R15-5-1107. Typesetting services
Casting and setting monotype, linotype, and photoplates for others are deemed to be services and are not subject to tax. Income from reproduction proofs furnished to a printer in connection with these services is not taxable. However, sales of reproduction proofs to non-printers are taxable.

Historical Note
Amended effective November 7, 1978 (Supp. 78-6).

R15-5-1108. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1109. Interstate and Foreign Transactions
A. Gross receipts from sales of job printing, engraving, embossing or copying made in interstate or foreign commerce by a vendor within this state are deductible from the tax base if the vendor ships or delivers the job printing to a location outside of Arizona for use outside of Arizona.
B. In meeting the above requirement, if delivery is made by the vendor to a common carrier for transportation to a location outside Arizona, the common carrier is deemed to be the agent of the vendor for purposes of this rule regardless of who is responsible for payment of the freight charges.
C. Suitable records for substantiating out-of-state shipments may include:
1. Internal delivery orders supported by receipts of expenses incurred in delivering the property and signed on the delivery date by the person who delivers the property;
2. Common carrier's receipt or bill of lading;
3. Parcel post receipt;
4. Export declaration;
5. Receipt from a licensed broker; or
6. Proof of export or import signed by a customs officer.

Historical Note
Former Section R15-5-1109 repealed, new Section R15-5-1109 adopted effective March 18, 1981 (Supp. 81-2). Amended effective June 25, 1993 (Supp. 93-2).

R15-5-1110. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1111. Cost of printing
A. A job printer who sublets the printing or other reproduction of an article may not deduct the cost thereof.
B. A job printer may not take a deduction for cost of labor or materials employed.

R15-5-1112. Photography
Photography does not fall within this classification but is included under the retail classification (see Article 18).

ARTICLE 12. REPEALED

R15-5-1201. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1202. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 13. SALES TAX -- PUBLISHING CLASSIFICATION

R15-5-1301. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1302. General
A. The gross income derived from the business of publishing within the state is taxable under this classification. Gross income includes revenue from subscriptions, notices, and local advertising.
B. Subscription income includes all circulation revenue. In determining the taxable base, however, there shall be excluded from such revenue those actual amounts retained by or credited to carriers and other vendors as compensation for delivery or sale of newspapers.
1. Carriers are defined as those persons who deliver newspapers to individual subscribers. Such deliveries are confined to a specific area or route.
2. Other vendors are defined as those persons who deliver newspapers to retailers such as news stands, convenience markets, drug stores and to coin-operated vending machines located in or near commercial establishments such as office buildings, hotels, motels, grocery and department stores.

C. Income of publishers from sales of newspapers, whether directly or through other vendors, to news stands, convenience markets, drug stores or other retailers are taxable under this classification. The sales of newspapers by such retailers to consumers are taxable as retail sales. (See R15-5-1802(C))

Historical Note
Amended effective March 18, 1981 (Supp. 81-2).

R15-5-1303. Definitions
A. A "publisher" is one who manufactures and distributes a publication from a point within this state.
B. The term "publication" includes books, newspapers, magazines, music, periodicals, and any other literary work.
C. Effective 9/12/75, the term "publication" shall specifically exclude books. Sales of books directly to a final consumer, however, are taxable under the retail classification (see Article 18).

R15-5-1304. Printing costs
The cost of printing a publication, including the subletting of printing to another person, is not deductible from the gross income.

R15-5-1305. Out-of-state distribution
Income from publications, other than books, mailed or distributed from a point within this state to a point outside the state is subject to the tax under this classification.

R15-5-1306. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 14. TRANSPORTING CLASSIFICATION

R15-5-1401. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1402. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1403. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1404. Excess Baggage Charges
A. Gross proceeds of sales or gross income from charges for excess baggage shipped from one point to another point in this state is included in the tax base under the transporting classification except as provided in subsection (B).
B. Gross proceeds of sales or gross income from charges for excess baggage shipped by motor vehicle from one point to another point in this state is not included in the tax base under the transporting classification if a light motor vehicle fee imposed under A.R.S. § 28-5492 or a motor carrier fee imposed under A.R.S. § 28-5852 is paid to the Department of Transportation on the vehicle used in the transporting.

Historical Note
Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).

R15-5-1405. Demurrage Charges
Gross proceeds of sales or gross income from demurrage charges is included in the tax base under the transporting classification unless the transporting to which it relates is excluded from the transporting classification.

Historical Note
Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).

R15-5-1406. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1407. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1408. Rental of Aircraft
A. Gross proceeds of sales or gross income from transporting by aircraft freight or property from one point to another point in this state is included in the tax base under the transporting classification.
B. A charge for the use of an aircraft when a pilot is not provided is rent. Gross proceeds of sales or gross income from the rental or leasing of aircraft is included in the tax base under the personal property rental classification unless a specific deduction or exclusion applies.

Historical Note
Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).

ARTICLE 15. PERSONAL PROPERTY RENTAL CLASSIFICATION

R15-5-1501. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1502. General
A. Gross income derived from the rental of tangible personal property is included in the tax base under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies. Examples of tangible personal property include: televisions, cars, trucks, lawnmowers, floor polishers, tuxedos, uniforms, furniture, towels, and linens.
B. In this Article, the terms "lease," "rental," and "leasing" are used synonymously.
C. Gross income from the lease of tangible personal property to a lessee who subleases the property is not taxable under the personal property rental classification if the lessee is engaged in the business of leasing the property under the personal property rental classification.
D. Gross income from the rental of tangible personal property includes charges for installation, labor, insurance, maintenance, repairs, pick-up, delivery, assembly, set-up, personal property taxes, and penalty fees even if these charges are billed as separate items, unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note
Amended subsection (D) and added subsection (E) effective March 18, 1981 (Supp. 81-2). Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1503. Location of Leased Equipment
A. Rental location from equipment leased by an Arizona lessor to a lessee who takes possession of the property in Arizona is taxable under this classification.
B. Rental income from equipment leased by an Arizona lessor to a lessee is not taxable when such equipment is shipped or delivered out of state, for use outside of the state.
C. Rental income from leasing of equipment by an out-of-state lessor is taxable when the equipment is shipped, delivered, or otherwise brought into Arizona, for use within the state. For example, when a vehicle is brought into Arizona and registered in Arizona, such vehicle is deemed to be for use in this state. The rental income is, therefore, taxable.

R15-5-1504. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1505. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1506. Rental of Tangible Personal Property to Government Agencies
A lessor's gross income from the rental of tangible personal property to the United States Government, the state of Arizona, or other governmental subdivisions is taxable under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note
Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1507. Rental of Tangible Personal Property to Schools, Churches, and Other Nonprofit Organizations
A lessor's gross income from the rental of tangible personal property to a school, church, or other nonprofit organization is taxable under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note
Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1508. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1509. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1510. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1511. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1512. Lease -- Purchase Agreements
A. A lessor's gross income from the leasing of tangible personal property that includes an option to purchase the tangible personal property is taxable under the personal property rental classification until the lessee exercises the purchase option.
B. Gross income received after the lessee exercises the purchase option is taxable under the retail classification.

Historical Note
Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1513. Repealed

Historical Note
Adopted effective November 7, 1978 (Supp. 78-6). Section repealed by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

ARTICLE 16. COMMERCIAL LEASE CLASSIFICATION

R15-5-1601. Definitions
The following definitions apply for purposes of the rules in this Article, unless the context requires otherwise or unless otherwise defined.

1. "Agricultural property" means land or structures which are used for the purposes of growing crops or raising animals including agronomy, horticulture, viticulture, or animal husbandry.
2. "Economic unit of agricultural property" means agricultural property which is rented to the same lessee under one lease or rental agreement but may include more than one parcel or location which is functionally integrated.
3. "Real property used for commercial purposes" means land or structures, including parking lots but not including agricultural property or land or structures used for residential purposes.
4. "Rental" means renting or leasing
5. "Unit" means a single real property location rented or leased to a single tenant under one lease or rental agreement.

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-1601 renumbered from R15-5-1603 and amended effective April 21, 1995 (Supp. 95-2).

R15-5-1602. Casual Leasing Activity
A. For purposes of taxation under the commercial lease classification, there shall be no general exclusion for a casual rental of real property unless delineated under A.R.S. § 42-1310.09 except as provided in subsection (B) of this rule.
B. For periods ending on or before July 31, 1988, the rental of one unit or real property shall have been deemed to be a casual activity and not subject to transaction privilege tax if:
1. A lessor had income from another source which was unrelated to the income from the rental of real property and such income was of a significant amount so as to indicate that the rental activity was not the sole or main support of the lessor and
2. The scope and degree of the rental activity clearly indicated that the rental activity was an investment activity rather than income from a business.

C. For periods beginning on or after August 1, 1988, gross income from the rental of one or more units of real property used for commercial purposes shall be deemed to be a business activity and shall be taxable under the commercial lease classification.
D. For periods prior to July 17, 1993, gross income from the rental of one economic unit of agricultural property shall not be taxable if the following conditions exist:
1. A lessor had income from another source which was unrelated to the income from the rental of one economic unit of agricultural property and such income was of a significant amount so as to indicate that the rental activity was not the sole or main support of the lessor and
2. The scope and degree of the rental activity clearly indicated that the rental activity was an investment activity rather than income from a business.

E. For periods from and after July 17, 1993, gross income from the rental of agricultural property shall not be subject to tax if the conditions of A.R.S. § 42-1310.09(C) are met.
F. The following situations are indicative of the application of the general provisions of the commercial lease classification:
1. A three-story office building is lease in its entirety to a large law firm. The building is one unit of property. Prior to August 1, 1988, the lessor of the office building was not considered to be engaged in business under the commercial lease classification if the conditions of subsection (A) existed. Commencing on or after August 1, 1988, the single rental of commercial real property is subject to tax under the commercial lease classification.

2. Individual spaces in a small medical building are rented to three different members of the medical profession on separate leases. The property consists of three units. Regardless of the time period in which the rental occurred, the lessor in this situation has always been engaged in business under the commercial lease classification.
3. A partnership is formed to hold one unit of real property for purposes of leasing. Income received from this activity is taxable since the partnership was formed for business purposes.
4. Two hundred acres of farmland are leased to one tenant. The acreage is one economic unit of agricultural property. The lessor is employed as an engineer and leases the property as an investment. Regardless of the time period in which the lease occurred, the lessor of the property is not engaged in business under the commercial lease classification.
5. Two hundred acres of agricultural property are leased to five unrelated parties on separate leases. The property consists of five economic units of agricultural property. Regardless of the time period in which the leases occurred, the lessor is engaged in business under the commercial lease classification. Five separate lease agreements are not a casual activity and the lessor does not fall within any of the current exemptions under A.R.S. § 42-1310.09(C).

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-1602 renumbered from R15-5-1607 and amended effective April 21, 1995 (Supp. 95-2).

R15-5-1603. Renumbered

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Section R15-5-1603 renumbered to R15-5-1601 effective April 21, 1995 (Supp. 95-2).

R15-5-1604. Gross Income

A. Gross income under the commercial lease classification shall include all amounts paid to or on behalf of the lessor including but not limited to the following items:
1. Rent;
2. Property tax paid by the lessee either as reimbursement to the lessor or paid directly to the county assessor on the lessor's behalf;
3. Insurance paid by the lessee either as reimbursement to the lessor or directly on the lessor's behalf;
4. Common area maintenance charges paid by the lessee;
5. Payments by the lessee for the promotion of the facility or of the lessee;
6. Flat fees paid by the lessee for telephone and reception services, clerical services, library services, reproduction services or facsimile services when such services are contracted for as part of the lease or are obligatory under the lease:
7. Utility connect/disconnect charges;
8. Improvements to the leased property made on behalf of the lessor; or
9. Reimbursement for utility service in excess of the actual amount charged by the utility company.

B. Refundable deposits shall not be subject to tax at the time of receipt if such deposits are separate from gross receipts from commercial leasing and are maintained on the books and records of the lessor as a liability and not as income.
1. Any portion of a refundable deposit which is retained by the lessor as a forfeited deposit shall be included in gross receipts subject to tax.
2. Any portion of a refundable deposit which is not claimed by the tenant at the time the tenant departs shall be presumed to be abandoned property if not claimed within five years from the date of departure pursuant to A.R.S. Title 44, Chapter 3 and shall be reported and delivered as unclaimed property to the Department after the five-year period of time has elapsed.
3. If amounts reported as income are claimed as refundable deposits, the burden of proof shall be on the taxpayer to show that the income reported is not gross receipts subject to tax.

C. Nonrefundable charges, such as cleaning charges, shall be included in gross income at the time of receipt.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). Adopted effective April 21, 1995 (Supp. 95-2).

R15-5-1605. Rental to Government Agencies

A. Gross receipts from the rental of real property to the United States Government, state of Arizona, or any other government agency shall be taxable under the commercial lease classification unless otherwise exempt.

B. For periods beginning May 24, 1990, and ending on March 31, 1993, the gross receipts from the rental of a single unit of real property to the United States Government shall not be subject to tax if the lessor did not have any other commercial lease income and either of the following conditions existed;
1. The real property was listed on the National Register of Historic Places; or
2. The real property was leased to the United States Postal Service for use as a postal facility.

Historical Head
Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1606. Nonprofit Organizations

A. Nonprofit organizations shall be subject to tax under the commercial lease classification for gross receipts from the rental of real property unless otherwise exempt.

B. Leases of real property to nonprofit organizations shall be subject to tax under the commercial lease classification unless otherwise exempt.

Historical Head
Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1607. Renumbered

Historical Note
Amended effective November 1, 1976 (Supp. 76-5). Amended effective November 7, 1978 (Supp. 78-6). Section R15-5-1607 renumbered to R15-5-1602 effective April 21, 1995 (Supp. 95-2).

R15-5-1608. Commercial property -- storage facilities

Income from the rental of storage facilities is taxable, provided the lessee retains the right of direct access to the stored goods. Conversely, the storage of property by a warehouse, when the warehouse proprietor maintains full control over the specific location of the stored goods within the building, is not taxable. Such storage is deemed to be a service rather than rental of real property.

R15-5-1609. Commercial property -- licensee agreements

When a department store enters into an agreement with a licensee to provide space within the store which does not give the licensee exclusive right to any specific area within the store, the income from such an agreement is not subject to tax. The transaction is

deemed to be a licensee agreement rather than the subleasing of real property.

R15-5-1610. Rental Occupancy Tax

A. Income from leases entered into prior to December 1, 1967, and extending beyond January 1, 1975, shall be subject to tax under the Rental Occupancy Tax Act until the lease expires, is renewed, or renegotiated. The gross receipts or gross income from leasing after that time shall be taxable under the commercial lease classification.

B. Leases pertaining to the renting of office buildings, parking lots, and other property which had been subject to the transaction privilege tax prior to March 22, 1968, shall not be included under the Rental Occupancy Tax Act, but shall be subject to tax under the commercial lease classification.

Historical Note
Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1611. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1612. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1613. Repealed

Historical Note
Amended effective November 1, 1976 (Supp. 76-5). Repealed effective April 21, 1995 (Supp. 95-2).

R15-5-1614. Renumbered

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Renumbered to R15-5-1001 (Supp. 94-2).

R15-5-1615. Renumbered

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Renumbered to R15-5-1002 (Supp. 94-2).

R15-5-1616. Repealed

Historical Note
Repealed effective April 21, 1995 (Supp. 95-2).

R15-5-1617. Repealed

Historical Note
Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 17. RESTAURANT CLASSIFICATION

R15-5-1701. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1702. Repealed

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Repealed April 21, 1995 (Supp. 95-2).

R15-5-1703. Repealed

Historical Note
Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-1704. Providing Food or Drink to Government Agencies

A restaurant's gross proceeds of sales or gross income from sales of food or drink to the United States Government, the state or its political subdivisions, or any other government agency, or its employees is included in the tax base under the restaurant classification unless exempt as a sale to a qualifying hospital under A.R.S. § 42-1310.14(B)(7) or as a sale *for consumption within the premises of a prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff* under A.R.S. § 42-1310.14(B)(9).

Historical Note
Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1705. Amusement Devices

A restaurant's gross proceeds of sales or gross income from the operation of amusement devices is included in the tax base under the amusement classification (see Article 4).

Historical Note
Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1706. Cover Charges

A restaurant's gross proceeds of sales or gross income from a cover charge or other minimum charge is included in the tax base under the restaurant classification.

Historical Note
Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1707. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1708. Gratuities (Tips)

A. A restaurant's gross receipts from gratuities that are separately stated on the check or bill are not included in the restaurant's tax base if:
1. The exact amount charged on a check for gratuities is segregated on the seller's records for the account of the employees actually providing the services; and
2. The amounts so segregated are distributed directly to the employees providing the services for which the charges were made.

B. If a restaurant cannot specifically segregate the charges for gratuities or if any portion of the amounts charged for gratuities is not distributed to the employees involved, the total gross receipts from the gratuities are included in the tax base under the restaurant classification.

Historical Note
Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1709. Coupon Redemption

A restaurant that accepts coupons is subject to transaction privilege tax on the full sales price of the food or beverage before the coupon value is deducted if the restaurant receives advertising, services, or products in exchange for providing the discounts.

Historical Note
Adopted effective November 7, 1978 (Supp. 78-6). Amended effective December 16, 1997 (Supp. 97-4).

ARTICLE 18. SALES TAX -- RETAIL CLASSIFICATION

R15-5-1801. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-1802. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1803. Renumbered

Historical Note
Renumbered to R15-5-181 effective August 9, 1993 (Supp. 93-3).

R15-5-1804. Renumbered

Historical Note
Renumbered to R15-5-182 effective August 9, 1993 (Supp. 93-3).

R15-5-1805. Renumbered

Historical Note
Renumbered to R15-5-104 effective August 9, 1993 (Supp. 93-3).

R15-5-1806. Repealed

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1807. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1808. Renumbered

Historical Note
Renumbered to R15-5-111 effective August 9, 1993 (Supp. 93-3).

R15-5-1809. Renumbered

Historical Note
Renumbered to R15-5-110 effective August 9, 1993 (Supp. 93-3).

R15-5-1810. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1811. Renumbered

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Renumbered to R15-5-101 effective August 9, 1993 (Supp. 93-3).

R15-5-1812. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

Editor's Note: The information about casual sales that formerly was contained in R15-5-1812, and which is referenced in subsection R15-5-151(C)(1), now appears in R15-5-2001.

R15-5-1813. Renumbered

Historical Note
Renumbered to R15-5-2011 effective October 14, 1993 (Supp. 93-4).

R15-5-1814. Renumbered

Historical Note
Amended subsections (A) and (B) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-170 effective August 9, 1993 (Supp. 93-3).

R15-5-1815. Renumbered

Historical Note
Renumbered to R15-5-105 effective August 9, 1993 (Supp. 93-3).

R15-5-1816. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1817. Renumbered

Historical Note
Renumbered to R15-5-103 effective August 9, 1993 (Supp. 93-3).

R15-5-1818. Renumbered

Historical Note
Renumbered to R15-5-132 effective August 9, 1993 (Supp. 93-3).

R15-5-1819. Renumbered

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B), paragraph (1) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-156 effective August 9, 1993 (Supp. 93-3).

R15-5-1820. Renumbered

Historical Note
Renumbered to R15-5-133 effective August 9, 1993 (Supp. 93-3).

R15-5-1821. Renumbered

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-183 effective August 9, 1993 (Supp. 93-3).

R15-5-1822. Renumbered

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-120 effective August 9, 1993 (Supp. 93-3).

R15-5-1823. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1824. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1825. Renumbered

Historical Note
Renumbered to R15-5-180 effective August 9, 1993 (Supp. 93-3).

R15-5-1826. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1827. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1828. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1829. Renumbered

Historical Note
Renumbered to R15-5-134 effective August 9, 1993 (Supp. 93-3).

R15-5-1830. Renumbered

Historical Note
Renumbered to R15-5-121 effective August 9, 1993 (Supp. 93-3).

R15-5-1831. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1832. Repealed

Historical Note
Former Section R15-5-1832 repealed, new Section R15-5-1832 adopted effective September 3, 1978 (Supp. 78-6). Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1833. Renumbered

Historical Note
Former Section R15-5-1833 repealed, new Section R15-5-1833 adopted effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-136 effective August 9, 1993 (Supp. 93-3).

R15-5-1834. Renumbered

Historical Note
Renumbered to R15-5-112 effective August 9, 1993 (Supp. 93-3).

R15-5-1835. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1836. Renumbered

Historical Note
Renumbered to R15-5-150 effective August 9, 1993 (Supp. 93-3).

R15-5-1837. Repealed

Historical Note
Repealed effective April 15, 1993 (Supp. 93-2).

R15-5-1838. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1839. Renumbered

Historical Note
Renumbered to R15-5-129 effective August 9, 1993 (Supp. 93-3).

R15-5-1840. Renumbered

Historical Note
Renumbered to R15-5-122 effective August 9, 1993 (Supp. 93-3).

R15-5-1841. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1842. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1843. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1844. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1845. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1846. Renumbered

Historical Note
Renumbered to R15-5-3004 effective July 23, 1985 (Supp. 85-4).

R15-5-1847. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1848. Renumbered

Historical Note
Renumbered to R15-5-126 effective August 9, 1993 (Supp. 93-3).

R15-5-1849. Renumbered

Historical Note
Renumbered to R15-5-123 effective August 9, 1993 (Supp. 93-3).

R15-5-1850. Renumbered

Historical Note
Former Section R15-5-1850 repealed, new Section R15-5-1850 adopted effective June 18, 1987 (Supp. 87-2). Section R15-5-1850 renumbered to R15-5-2010 effective October 14, 1993 (Supp. 93-4).

R15-5-1851. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1852. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1853. Renumbered

Historical Note
Adopted effective November 7, 1978 (Supp. 78-6). Amended effective June 16, 1987 (Supp. 87-2). Renumbered to R15-5-154 effective August 9, 1993 (Supp. 93-3).

ARTICLE 18.1. SALES OF FOOD

R15-5-1860. Definitions

For the purpose of these rules, unless the context requires otherwise, the following definitions will apply:

1. "Accessory food items" means coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments and spices, and other non-staple foods.

2. "Attendant" means a person, generally the employee of the retailer, who waits on the customers, or tends to their needs.
3. "Automatic retailer" means a coin operated mechanical device or system which sells tangible personal property. Such device or system must itself vend or sell the items, i.e., a device or system which delivers the subject of the sale, or by automatic action physically delivers the thing sold. Vending machines are considered automatic retailers.
4. "Caterer" means a person engaged in the business of serving meals, food and drinks on the premises used by his customer, but does not include employees hired by the hour of day.
5. "Delicatessen" means a business which sells specialty food items, such as prepared cold meats, perishable food and grocery items kept under refrigeration.
6. "Facilities for the consumption of food" means appropriate furniture, tableware, or parking areas for sitting both in or on the premises of the business, either in or out of a motor vehicle.
7. "Food"
   a. Under A.R.S. § 42-1387, the Department is required to promulgate rules defining food as those items that may be purchased from an eligible grocery business with food coupons, but in no event may such definition of food include food for consumption on the premises, alcoholic beverages or tobacco. Even though alcoholic beverages and food for consumption on the premises may be intended for human consumption, such items are not considered food by the statutory provisions. In these rules, items that are considered food by the Statutes, and therefore tax exempt if sold by a qualified retailer, shall be referred to as "tax exempt foods." Other items that may be intended for human consumption but are excluded from the definition of food by the Statute, and are therefore subject to the Sales Tax, shall be referred to herein as "taxable foods."
   b. "Food" means: Items intended for human consumption. Food is deemed to be intended for human consumption when its intended or ordinary use is as a food for human consumption or is an ingredient used in preparing food for human consumption. For example, even though animal food may be used by some humans, its ordinary or intended use is not for human consumption. Also, even though vitamins and other medication may be ingested, its intended or ordinary use is as a health aid or therapeutic agent or a deficiency corrector and is not intended for use as food. Following is a numeration of items which the Department does not consider food for human consumption:
      i. Pet food and supplies
      ii. Cosmetics and grooming items
      iii. Tobacco products
      iv. Soaps and paper products and household supplies
      v. Dietary supplements such as vitamins or protein supplements
      vi. Medicines
      vii. Fertilizer
8. "Food for consumption on the premises"
   a. "Food for consumption on the premises" means the following:
      i. Hot prepared food, including products, items or ingredients of food which are prepared and sold or are intended to be sold in a heated condition. This also includes a combination of hot and cold food items or ingredients if a single price is charged by the retailer.
      ii. Hot or cold sandwiches including frozen sandwiches.
      iii. Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters and within parking areas (for in-car consumption).
      iv. Food served with trays, glasses, dishes or other tableware. Food which is generally selected by the customer from available displays and then taken by the customer to a checkout stand for payment is not considered to be served by the retailer.
      v. Beverages sold in cups, glasses or open containers. Beverages shall include items such as milk shakes and ice cream floats.
      vi. Food sold by caterers.
      vii. Food sold within the premises of theaters, exhibitions, fairs, amusement parks, bowling alleys, athletic events, and other shows or contests and any businesses which charge admission, entrance or cover fees for exhibition, amusement, entertainment or instruction. While food for consumption on the premises includes any food sold within the premises of certain businesses, including businesses that charge admission, entrance or cover fees for exhibition, amusement, entertainment or instruction, food for consumption on premises does not include sales of tax exempt food by a qualified retailer within the premises of a full time educational institution that charges tuition for a full course of studies.
   b. Any item enumerated in subparagraph (a) which is sold on a take-out or to-go basis is still considered to be food for consumption on the premises and therefore taxable.
9. "Food intended for home consumption" means food, other than food for consumption on the premises, which is usually intended to be consumed at home. Unless the taxpayer can establish to the contrary, food delivered by a retailer to an office or other business establishment shall not be considered food intended for home consumption.
10. "Home" means a natural person's usual or habitual dwelling place, including rest homes, nursing homes, jails and other such institutions.
11. "Premises" means the total space and facilities, including buildings, grounds and parking lot that are made available for use by the retailer for the purpose of consuming food sold by such retailer.
12. "Qualified retailer"
   a. A qualified retailer or qualified retail business is one that may be eligible to sell tax exempt food without including the sale of tax exempt food items in its taxable base. A retailer other than a qualified retailer must pay a tax measured by the sale of otherwise exempt food even though the sale of such items would be exempt if sold by a qualified retailer.
   b. Qualified retailers are:
      i. An eligible grocery business, which includes retailers who are eligible to participate in the

United States Department of Agriculture Food Stamp Program, whether such retailer actually participates in the food stamp program. If a retailer is eligible to participate in the food stamp program, but does not participate in such program, such retailer may only be an eligible grocery business if the retailer first makes application to the Department to sell food tax exempt. Examples of retailers that might be considered eligible grocery businesses include:
(1) Grocery stores;
(2) Convenience stores;
(3) Butcher shops;
(4) Bakeries;
(5) Dairy stores;
(6) Cheese stores;
(7) Farmer's markets.

ii. Retailers whose primary business is not the sale of food, but who sell food in a manner similar to grocery stores. This category includes stores such as department stores, drug stores, and gas stations.

iii. Retailers who sell food and who do not provide any facilities for consumption of food on the premises. This category may include certain health food stores, and certain outlets retailing soda and other similar beverages in bottles or cans, but not cups.

iv. Delicatessen business, if such retailer conducts his business so that the sale of tax exempt foods and other taxable items may be separately accounted for, through, for example, the use of two (2) cash registers, or a cash register with at least two (2) tax computing keys which are used to record taxable and tax exempt sales.

v. A retailer who is a street or sidewalk vendor who uses a pushcart, mobile facility, motor vehicle, or other such conveyance. Such retailers include:
(1) Snackmobile;
(2) Chuck wagon;
(3) Mobile hot dog stands.

vi. Vending machines and other automatic retailers.

13. "Staple food" means those food items intended for home preparation and consumption, which includes meat, poultry, fish, bread and bread stuffs, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products.
14. "Taxable foods" are items which may be intended for human consumption, but are still subject to the Sales Tax when sold. Examples of taxable foods would be alcoholic beverages, and food for consumption on the premises.
15. Tax-exempt foods
    a. "Tax exempt foods" are generally those items of food intended for home consumption which, if purchased from an eligible grocery business, would be eligible as of January 1, 1979, to be purchased with food coupons issued by the United States Department of Agriculture.
    b. Tax-exempt food shall also include any new items of food intended for human consumption which would have been eligible for purchase with food coupons issued by the United States Department of Agriculture if such items would have existed for sale on January 1, 1979.
    c. The following are examples of items which the Department will consider as tax exempt food:
        bread and flour products
        vegetables and vegetable products
        candy and confectionery
        sugar, sugar products and substitutes
        cereal and cereal products
        butter, oleomargarine, shortening and cooking oils
        cocoa and cocoa products
        coffee and coffee substitutes
        milk and milk products
        eggs and egg products
        tea
        meat and meat products
        spices, condiments, extracts and food colorings
        fish and fish products
        frozen foods
        soft drinks and soda (including bottles on which a deposit is required to be paid)
        fruit and fruit products
        packaged ice cream products
        dietary substitutes
        ice cubes and bottled water including carbonated and mineral water
        purchases of seed and plants for use in gardens to produce food items for personal consumption
16. "Two tax computing keys" shall mean the mechanical or electronic function in a cash register which can separately record and accumulate taxable and nontaxable items without having the items presorted.

Historical Note
Adopted as an emergency effective June 30, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now amended and adopted effective October 15, 1980 (Supp. 80-5).

R15-5-1861. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1862. Restaurant food sales

A. Restaurants are generally not qualified retailers, and therefore cannot sell food tax free, but are taxable upon all of their gross income or gross proceeds of sale.

B. If a qualified retailer also operates a restaurant, the gross income or gross receipts of a sale from the two (2) activities must be kept separate. The gross receipts or gross income from the operation of the restaurant shall always be taxable, as will the income from all sales of taxable food and nonfood items. Except for items which may be exempt under some other provision, only tax-exempt foods sold by a qualified retailer not in connection with its restaurant operation shall be exempt.

C. To the extent that a delicatessen may sell taxable food, such as hot or cold sandwiches, such delicatessen will be required to report under this classification. Since a delicatessen business may constitute a qualified retailer, such business may still be eligible to sell tax exempt food, if such sales are separately accounted for.

Historical Note
Adopted as an emergency effective June 30, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now amended and adopted effective October 15, 1980 (Supp. 80-5).

R15-5-1863. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1864. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.01. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.02. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.03. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.04. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1865. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1866. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1867. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 19. REPEALED

R15-5-1901. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1902. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1903. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1904. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1905. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1906. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 20. GENERAL

R15-5-2001. Definitions
The following definitions apply for the purposes of the rules in this Chapter, unless the context requires otherwise or unless otherwise defined. An individual rule may contain definitions which are specific to the context of that rule.

1. "Casual sale" means an occasional transaction of an isolated nature made by a person who is not engaged in the business of selling, within or without the state, the same type or character of property as that which was sold.
2. "Department" means the Arizona Department of Revenue.
3. "Gross income" means all receipts of a trade or business from sales or services. It includes the total consideration received or constructively received. The value of all services which are part of the sale is considered part of the gross income, unless statutorily excluded.
4. "Gross receipts" means gross receipts as defined in A.R.S. § 42-1301.
5. "Real property" means land and anything permanently affixed to land.
6. "Taxpayer" means any person required by law to file returns or to pay transaction privilege tax, use tax, rental occupancy tax, or excise taxes to the Department.
7. "Vendor" means any person engaged in a business which is subject to Arizona tax.

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-2001 renumbered from R15-5-202 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2002. Liability for Transaction Privilege Tax
The transaction privilege tax is imposed directly on the person engaging in a taxable business within Arizona. The vendor shall be liable for the tax, regardless of whether or not the vendor passes on the economic burden of the tax to the customer.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-2002 renumbered from R15-5-204 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2003. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2004. Multi-location and Multi-business Taxpayers

A. A taxpayer with multiple licenses for separate businesses shall maintain separate records for each licensed business.

B. A tax is levied upon the privilege of engaging in specified businesses within Arizona. Class codes for reporting gross receipts subject to tax have been determined by the Department based on statutory provisions. Each business classification is independent of the others even when transacted under one license. A person who engages in more than one type of business under each license shall maintain books and records so that the gross proceeds of sales or gross income of each taxable business classification is shown separately.

C. Failure to maintain appropriate books and records shall result in the imposition of the tax at the highest tax rate on gross proceeds of sales or gross income applicable to a classification under which the taxpayer is doing business.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-2004 renumbered from R15-5-2215 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2005. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2006. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2007. Credit for Accounting and Reporting Expenses

A. For purposes of this rule, the following definitions apply:
1. "Reporting period" means a calendar month unless another period is authorized pursuant to A.R.S. § 42-1322.
2. "Statutory delinquency date" means the date by which a payment of tax is considered delinquent pursuant to A.R.S. § 42-1322.
3. "Tax return" means the Transaction Privilege, Use, and Severance Tax Return (TPT-1).
4. "Taxable business" means a business which is subject to either transaction privilege or severance tax.
5. "Taxpayer" means taxpayer as defined in A.R.S. § 42-1322.04(C), including an entity which is exempt from state income tax. The following are considered a single taxpayer:
   a. Members of an Arizona affiliated group filing a consolidated corporate income tax return under A.R.S. § 43-947;
   b. Corporations in a unitary business filing a combined corporate income tax return under A.A.C. R15-2-1131(E);
   c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return under A.A.C. R15-2-1131(E); or
   d. Partnerships, S Corporations, trusts, or estates conducting multiple businesses, filing a single income tax return.

B. A taxpayer shall compute the credit, using the full amount of tax as required to be reported on the tax return, including any excess tax collected. The Department shall not allow a credit against taxes other than the state transaction privilege tax and the severance tax.

C. Except as provided in subsection (D), the Department shall not allow a credit if the taxpayer fails to pay the tax due before the statutory delinquency date. Failure to pay the tax due includes the following circumstances:
1. The taxpayer makes an underpayment of tax due, including any estimated tax due, or,
2. The taxpayer's check is dishonored.

D. In the case of taxpayer computational error, the Department shall allow the credit based on the amounts originally filed, if the computational error resulted in the overpayment or underpayment of the tax actually due:
1. In the case of an overpayment, the Department shall allow the credit on the actual amount of tax due for the reporting period.
2. In the case of an underpayment, the Department shall allow the credit on the amount of the tax paid prior to the statutory delinquency date.

E. To receive the credit for each reporting period, the taxpayer shall claim the credit on the tax return. If the taxpayer understates the amount of the credit on the tax return, the Department shall allow the amount of credit which the taxpayer has claimed. The taxpayer may file an amended return to claim any unclaimed portion of the credit if the taxpayer timely paid the tax upon which the credit is based. If the taxpayer overstates the amount of the credit, the Department shall allow the amount of credit actually permitted for the reporting period.

F. A taxpayer is entitled to 1 credit, regardless of the number of licenses, businesses, or locations the taxpayer may have. Taxpayers with multiple licenses for separate businesses or separate locations shall elect the manner in which to allocate the credit among their licenses within the $10,000 annual limitation. The election shall be made on a form 51-T. The taxpayer shall file the election on or before January 15 of the 1st year for which an election is being made or within 30 days prior to beginning operations if the taxpayer is a new business entity. The taxpayer is required to file an election 1 time; however, a new election may be filed under the following circumstances:
1. If a taxpayer does not claim the entire $10,000 credit during the calendar year, the taxpayer may amend the election at the end of the calendar year to reallocate the unclaimed portion of the credit for that particular year. This amended election shall be filed on or before January 31 of the following year. To claim the reallocated credit, the taxpayer shall file an amended tax return for each reporting period in which a sufficient tax was due and timely paid. For example: an individual owns 3 separate businesses with different transaction privilege tax licenses. At the beginning of the year, the individual allocates the $10,000 credit as follows: $3,000 to Company A; $2,000 to Company B; and $5,000 to Company C. At the end of the year, Companies A and B have claimed the credit up to their allocated amounts. However, Company C has only claimed $1,000 of its allocated credit. Company A timely paid a sufficient amount of tax during the months of August and September to qualify for an additional $4,000 credit. The individual may amend the election to reallocate the unclaimed credit to Company A. To claim the $4,000 credit, the individual must file an amended tax return for Company A for the months of August and September.
2. If a taxpayer acquires, sells, or terminates a taxable business during the calendar year, the taxpayer may amend the election at that time to reallocate the credit. The taxpayer shall only reallocate the portion of the credit which has not been claimed by the date on which the taxpayer acquires, sells, or terminates the business. The taxpayer shall ensure that the election relates to the acquired, sold, or terminated business and is made on a prospective basis only. The taxpayer shall notify the Department of the reallocation 30 days prior to the due date of the tax return for the reporting period to which the reallocation applies. For example: Corporation A is the common parent of Corporations B and C and elects to file a consolidated corporate state income tax return. Each of the 3 corporations conducts a taxable business activity. Since the 3 corporations file state income tax as 1 entity, Corporation A is required to allocate the $10,000 credit among the 3 corporations. At the beginning of the year, Corporation A elects to allocate the entire $10,000 credit to Corporation B. On July 1, Corporation A acquires Corporation D which also conducts a taxable business activity. Corporation A may amend its election at this time to take into account Corporation D. Corporation A may reallocate the portion of the credit not already claimed by Corporation B to Corporation D.

G. Where a taxpayer is allocating the $10,000 credit, the following rules apply:
1. The Department shall allow a unitary business, filing a combined corporate state income tax return, or an Arizona affiliated group, filing a consolidated corporate state income tax return, one $10,000 credit. The unitary business or affiliated group may allocate the credit among its members. If the unitary business or affiliated group fails to allocate the $10,000 credit, the Department shall allocate the credit to the corporation in whose name the uni-

tary business or affiliated group files its state income tax return regardless of whether the corporation conducts a taxable business.

a. If a corporation joins an Arizona affiliated group or unitary business during the calendar year, the Department shall classify the corporation as a separate taxpayer for the period before it joins the affiliated group or unitary business. The Department shall classify the corporation as the same taxpayer, an affiliated group, or unitary business for the period after it joins the affiliated group or unitary business. An affiliated group or unitary business may allocate the $10,000 credit, even if a member corporation claimed the credit before it joined the affiliated group or unitary business.

b. If a corporation leaves an affiliated group or unitary business during the calendar year, the Department shall classify the corporation as the same taxpayer, an affiliated group, or unitary business for the period before it leaves the affiliated group or unitary business. The Department shall not classify the corporation as the same taxpayer for the period after it leaves the affiliated group or unitary business. The corporation, as a separate taxpayer or part of a separate taxpayer, may allocate the $10,000 credit, even if the corporation claimed the credit before it left an affiliated group or unitary business.

2. If a partnership, S corporation, trust, or estate conducts multiple taxable businesses, the Department shall allow the partnership, S corporation, trust, or estate one $10,000 credit. The partnership, S corporation, trust, or estate may allocate the credit among its businesses. The credit shall not be allocated to the partners of a partnership, shareholders of an S corporation, or beneficiaries of a trust or estate.

3. In cases where the taxpayers are married and each spouse conducts a taxable business, the Department shall allow one $10,000 credit per income tax return. If the married taxpayers file separate individual income tax returns, the Department shall allow each spouse one $10,000 credit. If the married taxpayers file a joint income tax return, the Department shall allow one $10,000 credit for the couple.

Historical Note

Renumbered from R15-5-3025 (Supp. 94-2). Amended effective August 13, 1996 (Supp. 96-3).

R15-5-2008. Reserved

R15-5-2009. Reserved

R15-5-2010. Transactions Between Affiliated Persons

A. For purposes of this rule, the following definitions apply:

1. "Actual ownership" means direct ownership and control but does not include ownership by or through affiliated persons.
2. "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.
3. "Constructive purchase price" means the fair market value or, if the fair market value cannot be determined, the value established by expert appraisal that takes into consideration all factors relevant to the transaction.
4. "Control of a business entity" means direct or indirect ownership or control of more than 50% of the business entity. The following guidelines, as to indirect ownership, shall apply for purposes of determining control of a business entity.
   a. A corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.
   b. An individual shall be considered as owning directly or indirectly that portion which is owned by or for members of the individual's family.
   c. The ownership of stock by a corporation, partnership, estate, or trust shall be considered actual ownership to its shareholders, partners, or beneficiaries for purposes of making another individual a constructive owner.
   d. Ownership based on a family relationship shall not be treated as actual ownership by the related party for the purpose of making another individual a constructive owner.
5. "Fair market value" means the gross receipts that the transaction would have brought in the open market at a time and location similar to that of the affiliated party transaction and between a willing purchaser and a willing seller, who are not affiliated and have reasonable knowledge of the relevant facts.
6. "Members of the individual's family" means the relationship of spouse, brothers, and sisters, whether by whole or half blood and including adopted persons, ancestors, and lineal descendants.

B. The tax shall be computed upon the constructive purchase price when:

1. The transaction is between affiliated persons, and
2. The facts and circumstances indicate that the reported gross receipts from the transaction are not indicative of the fair market value of the transaction.

Historical Note

Renumbered from Section R15-5-1850 and amended effective October 14, 1993 (Supp. 93-4). Corrected typographical error to reflect what was filed with the Office of Secretary of State October 14, 1993; changed "owner" to "owned" in subsection (A)(4)(a) (Supp. 97-1).

R15-5-2011. Bad Debts

A. The deduction of a bad debt shall be allowed from gross receipts if the following conditions apply:

1. The gross receipts from the transaction on which the bad debt deduction is being taken have been reported as taxable;
2. The debt arose from a debtor-creditor relationship based upon a valid and enforceable obligation to pay a fixed or determinable sum of money; and
3. All or part of the debt is worthless.

B. A debt shall be considered worthless if:

1. The surrounding circumstances indicate that the debt is uncollectible; and
2. Legal action to enforce payment has not or, in all probability, would not result in the satisfaction of the debt.

C. The bad debt deduction shall be computed by subtracting the amounts received on the debt from the amount originally reported as taxable. The portion of the amounts received on the debt representing carrying charges, interest, and repossession expenses, which have not been reported as taxable, shall not be allowed as a bad debt deduction.

D. A bad debt deduction shall be taken in the month in which the conditions of subsection (A) apply.

E. A bad debt deduction shall be allowed, pursuant to the provisions in this rule, on conditional or installment sales if:

1. The tax liability is paid on the full sales price of the tangible personal property at the time of the sale; or

2. A contract or other financial obligation is sold to a third party as a sale with recourse and principal payments are made by the vendor to the third party, pursuant to the default of the original payor. Such principal payments may be taken as a bad debt deduction if the tax was paid by the vendor on the original sale of the tangible personal property or on the subsequent sale of the financing contract.
3. For purposes of the bad debt deduction in situations of default on conditional or installment sales, a "sale with recourse" means that a vendor sells a contract or other financial obligation to a third party but retains liability for payment upon default of the original payor.

F. Any recovery of a bad debt subsequent to a bad debt deduction shall be reported as taxable gross receipts when received.

Historical Note
Renumbered from Section R15-5-1813 and amended effective October 14, 1993 (Supp. 93-4). Corrected misspelling in subsection (E)(3) from "retails" to "retains" (Supp. 94-2).

ARTICLE 21. UTILITIES CLASSIFICATION

R15-5-2101. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-2102. Renumbered

Historical Note
Renumbered to R15-5-3024 (Supp. 86-6).

R15-5-2103. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2104. Interstate and Foreign Sales
A person engaged in business under the utilities classification may deduct from the tax base gross receipts from sales of electricity, gas, or water, delivered through transmission lines or pipelines to a point in another state or country, from a point in this state and used outside this state.

Historical Note
Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2105. Locally Delivered Utilities
A person engaged in business under the utilities classification is subject to tax on the gross receipts from sales of electricity, gas, or water, produced outside this state that is delivered through transmission lines or pipelines to a point in this state, for use in this state unless an exemption applies.

Historical Note
Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2106. Compressed and Bottled Liquids
The gross receipts from sales of bottled gases and bottled water are subject to tax under the retail classification unless otherwise exempt.

Historical Note
Amended effective March 18, 1981 (Supp. 81-2).
Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2107. Sales to Irrigation Districts
A person engaged in business under the utilities classification is subject to tax on the gross receipts from producing and furnishing or furnishing electricity or gas to an irrigation district for the purpose of producing water for irrigation of farm lands or of lands subdivided for residential purposes which are entitled to irrigation water unless an exemption applies.

Historical Note
Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2108. Repealed

Historical Note
Repealed effective October 17, 1997 (Supp. 97-4).

R15-5-2109. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2110. Security Deposits
Gross receipts from customer deposits that are held as security for payment of utility billings are not subject to tax until recognized as income. A deposit that is not applied to a customer's bill or refunded to a customer when utility services are discontinued shall be presumed to be abandoned property if the customer does not claim it within the period established under A.R.S. Title 44, Chapter 3. Customer deposits that are presumed to be abandoned property under A.R.S. Title 44, Chapter 3, shall be reported and delivered to the Department as unclaimed property. Amounts delivered to the Department as unclaimed property are not included in the tax base. For example:

1. A utility company requires a new customer to deposit $150 before it provides utility service. The customer moves and notifies the utility company to discontinue service. The customer's final bill is $130. The utility applies the deposit to the final bill and refunds $20 to the customer. The amount applied to the utility bill is recognized as income and subject to tax. The amount refunded to the customer is not recognized by the utility as income and is not subject to tax.
2. A utility company requires a new customer to deposit $150 before it provides utility service. The customer notifies the utility company to discontinue service. The customer's final bill is $130. The utility applies the deposit to the final bill. The customer does not provide a forwarding address to the utility. Therefore, the utility company is not able to refund the remaining $20 to the customer. The amount applied to the utility bill is recognized as income and subject to tax. The remaining $20 is presumed to be abandoned property if not claimed under A.R.S. Title 44, Chapter 3. The amount presumed to be abandoned property shall be reported and delivered to the Department as unclaimed property under A.R.S. Title 44, Chapter 3. The amount delivered to the Department as unclaimed property is not recognized as income by the utility and is not subject to tax.

Historical Note
Amended effective October 17, 1997 (Supp. 97-4).

ARTICLE 22. TRANSACTION PRIVILEGE TAX - ADMINISTRATION

R15-5-2201. Display of License

A. A person maintaining a public place of business in Arizona shall display the transaction privilege tax license in a location conspicuous to the public.

B. If a person maintains more than one place of business in Arizona, a transaction privilege tax license shall be displayed at each location.

C. For lessors engaged in the business of commercial leasing, a transaction privilege tax license shall be displayed in each location from which the lessor engages in business transactions.

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended effective October 15, 1980 (Supp. 80-5). Repealed effective February 22, 1989 (Supp. 89-1). Section R15-5-2201 renumbered from R15-5-2203 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2202. Change in Ownership

A. A transaction privilege tax or use tax license is issued to a specific person. The license shall not be transferred to the new owner when selling a business. The new owner shall apply to the state for a new license before engaging in business transactions.

B. Court-appointed trustees, receivers, and others in cases of liquidation or operational bankruptcies shall obtain a transaction privilege tax or use tax license.

C. If a licensee has any change in ownership, the licensee shall apply for a new license.

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1). Section R15-5-2202 renumbered from R15-5-2205 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2203. Change of Name or Trade Name

If a change is made in the name or trade name under which the business is operating and the ownership remains the same, the taxpayer shall apply for a new license.

Historical Note
Section R15-5-2203 renumbered to R15-5-2201, new Section R15-5-2203 renumbered from R15-5-2206 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2204. Change of Business Location or Mailing Address

A. The taxpayer shall apply for a new transaction privilege tax or use tax license if the physical location of the business changes.

B. The taxpayer shall notify the Department in writing of a change in mailing address.

Historical Note
Amended effective October 15, 1980 (Supp. 80-5). Section R15-5-2204 repealed, new Section R15-5-2204 renumbered from R15-5-2207 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2205. Surrender of License upon Sale or Termination of Business

If a business is sold or terminated, the taxpayer shall notify the Department in writing of the date of sale or termination and shall surrender the transaction privilege tax or use tax license to the Department.

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Section R15-5-2205 renumbered to R15-5-2202, new Section R15-5-2205 renumbered from R15-5-2209 effective October 14, 1993 (Supp. 93-4).

R15-5-2206. Cancellation of License

A. The Department may cancel a license if:
1. During any consecutive 12-month period, the licensee reports no taxable transaction; and
2. The licensee is not a subcontractor or wholesaler.

B. The Department shall notify a licensee in writing of its intention to cancel the license. The notice shall explain the action the licensee may take to contest cancellation of the license and when cancellation is final.

C. The Department shall cancel a license 30 days after the notice of intention to cancel is mailed unless, within 30 days, the licensee objects to the cancellation in writing and produces documentation that the licensee is actively engaged in a taxable business. Suitable documentation includes, but is not limited to, the following:
1. Evidence that the licensee holds an inventory of raw or finished tangible personal property for sale or resale;
2. Evidence that the licensee maintains segregated bank accounts for the purpose of transacting business;
3. Bona fide contracts for future sale or resale of tangible personal property;
4. Profit and loss statements for federal or state income tax purposes; or
5. Evidence that the licensee otherwise actually engages in bona fide business activities.

D. Within 30 days of receipt of the licensee's objections and documentation, the Department shall notify the licensee in writing of its decision to cancel or retain the license. If the decision is to cancel the license, the licensee may request an administrative hearing.

Historical Note
Section R15-5-2206 renumbered to R15-5-2203, new Section R15-5-2206 renumbered from R15-5-3018 effective October 14, 1993 (Supp. 93-4).

R15-5-2207. Taxpayer Bonds

A. The amount of the bond required under A.R.S. § 42-112 shall be the greater of five hundred dollars, or:
1. For licensees reporting monthly, four times the average monthly tax liability;
2. For licensees reporting quarterly, six times the average monthly tax liability; or
3. For licensees reporting annually, fourteen times the average monthly tax liability.

B. For purposes of determining the bond amount, the average monthly tax liability is equal to the average monthly tax due from the licensee for the preceding six consecutive months. If an applicant does not have a six-month payment history, the bond amount shall be a minimum of five hundred dollars.

C. If a licensee provides a surety bond and the bond lapses, the licensee must deposit with the Department cash or other security in an amount equal to the lapsed surety bond within five business days of the licensee's receipt of written notification by the Department.

D. The bond amount may be increased or decreased as necessary based upon a change in the licensee's previous filing period, filing compliance record, or payment history. If the bond amount has been increased above the amount computed under subsection (B) of this rule, the licensee may request a hearing pursuant to A.R.S. § 42-112 to show why the order increasing the bond amount is in error.

Historical Note
Former Section R15-5-2207 renumbered to R15-5-2204 effective October 14, 1993 (Supp. 93-4). New Section R15-5-2207 renumbered from R15-10-201 (Supp. 94-1).

R15-5-2208. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2209. Renumbered

Historical Note
Section R15-5-2209 renumbered to R15-5-2205 effective October 14, 1993 (Supp. 93-4).

R15-5-2210. Collection of Tax by the Vendor

A. The vendor may pass on the economic burden of the transaction privilege tax, either as an unspecified portion of the overall selling price or as a separate and distinct item of charge.
1. If a vendor elects to pass on the economic burden of the tax as a separate and distinct item of charge, the vendor's tax base shall not include any collected state, county, city, or town taxes.
2. If the vendor does not pass on the tax as a separate and distinct item of charge, the vendor may factor out the tax. See R15-5-2210.01.
3. The amount of tax on a transaction shall be the same whether the tax is stated as a separate and distinct item of charge or the tax is calculated using the factoring method.
4. Calculation of the amount of the tax using the separate and distinct item of charge method shall be as follows:

Price of tangible personal property	$100
Multiply the price by the applicable tax rate	
$100 times 5% equals the tax as calculated	$5
Total cost to the consumer	$105

B. All taxes collected shall be remitted to the Department and applicable taxing jurisdictions. If a vendor has collected tax in excess of the tax liability for the reporting period, the excess tax shall also be remitted.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section adopted effective October 14, 1993 (Supp. 93-4). Reference correction (Supp. 95-2).

R15-5-2210.01. Factoring

"Factoring" means a method by which the taxpayer may determine the amount of the tax when the tax is collected as an unspecified part of the selling price.
1. The taxpayer may use any factoring method resulting in a tax amount equal to the tax as calculated using the separate and distinct item of charge method.
2. The following factoring method is approved and recommended by the Department.

To calculate the tax under the factoring method, the total cost to the consumer is divided by one plus the cumulative amount of the state and applicable county, city, and town tax rates, stated as a decimal. The result of this calculation is then multiplied by the cumulative tax rate to arrive at the amount of the tax on the sale. The gross receipts subject to tax, plus the cumulative tax on that amount, shall equal the total cost to the consumer.

To factor:	
Total cost to the consumer	$105
Divide the total cost to the consumer by 1 plus the tax rate (1.00 plus .05)	
$105 divided by 1.05 equals the price of tangible personal property	$100
Tax as calculated ($100 times 5%)	$5

Historical Note
New Section adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2211. Election of Basis to Report and Pay Taxes

A. The taxpayer, on the application for a transaction privilege tax or use tax license, shall elect to report and pay taxes based on either the "cash receipts" or the "accrual" method.

B. Under the cash receipts method, a sale is reported in the month in which payment is received. Under the accrual method, the sale is reported in the month in which it occurs without regard to when payment is received. Allowable deductions and exemptions shall be reported in a manner consistent with the reporting of the tax.

C. The basis of reporting shall not be changed without receiving written approval from the Department. The Department may audit the books of the taxpayer to adjust any tax liability resulting from the change.

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4). New Section renumbered from R15-5-2213 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2212. Payment of Taxes

The taxpayer shall separately compute the tax liability for use taxes, city taxes, and the combined state and county taxes using the monthly report form, even though a single payment shall be remitted to the Department.

Historical Note
Repealed effective July 23, 1987 (Supp. 85-4). New Section R15-5-2212 renumbered from Section R15-5-3005 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2213. Alternative Reporting

A. The Department shall authorize taxpayers to report on an annual or quarterly basis, if the taxpayer has established a filing history that shows that the taxpayer is not currently delinquent and that the taxpayer's annual tax liability is between $500 and $1250 for quarterly reporting or $500 or less for annual reporting.

B. The Department shall authorize new businesses that reasonably estimate their annual tax liability for the succeeding 12 months will be between $500 and $1,250 to report and remit tax on a quarterly basis.

C. A taxpayer shall increase the reporting frequency to monthly and notify the Department of the change in reporting if the taxpayer's annual tax liability equals or exceeds or can reasonably be expected to equal or exceed $1,250. The taxpayer shall increase the reporting frequency to quarterly and notify the Department of the change in reporting if the taxpayer's annual tax liability exceeds or can reasonably be expected to exceed $500, but is or will be less than $1,250. Failure to increase reporting frequency will subject the taxpayer to interest. Failure to increase reporting frequency will also subject the taxpayer to penalties unless the taxpayer can show that the failure was due to reasonable cause and not willful neglect.

D. A taxpayer shall begin to report on a monthly basis at any time during a 12-month period if the annualized tax liability for the taxpayer reporting on an annual or quarterly basis equals or exceeds $1,250. A taxpayer shall begin to report on a quarterly basis at any time during a 12-month period if the annualized tax liability for the taxpayer reporting on an annual basis is expected to exceed $500, but be less than $1,250.

Historical Note
Former Section R15-5-2213 renumbered to R15-5-2211, new Section R15-5-2213 adopted effective October 14, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 5065, effective October 5, 2001 (Supp. 01-4).

R15-5-2214. Establishing the Right to a Deduction by Use of a Certificate or Other Documentation

A. The vendor is responsible for the payment of tax and therefore shall provide sufficient documentation in support of all deductions.

B. The vendor may establish a deduction or exclusion from the tax base pursuant to A.R.S. § 42-1316 or 42-1328.

1. If the purchaser does not have a valid license number, the purchaser shall indicate the reason on any certificate.
2. Marking an invoice may be done either by recording the purchaser's transaction privilege tax license number on the invoice or by cross referencing the specific transaction to the specific exemption certificate of the specific purchaser.
3. The Department has prescribed a certificate for establishing entitlement to statutory deductions. Reproductions of the blank prescribed original certificate shall be acceptable for use.
4. The appropriate certificate shall be accurately and fully completed by the purchaser.
5. If the vendor has reason to believe that the information contained in the certificate is not accurate, complete, or applicable to the transaction, the vendor may refuse to accept the certificate.
6. If at any time the vendor has reason to believe that the certificate is not applicable to a transaction, the vendor may refuse to honor the certificate for that transaction.
7. The Department may challenge the certificate as accepted by the vendor if the Department has reason to believe that the information in the certificate is incomplete, inaccurate, or if the exemption claimed is not based on statutory provisions. The burden of proof lies with the Department when a vendor accepts a completed departmental certificate and marks the applicable invoice pursuant to statute.

C. A blanket certificate may be accepted if the vendor and purchaser agree. The blanket certificate may continue in force, for applicable transactions, for a period of time as set forth on the certificate. For purposes of this rule, a blanket certificate is one which covers the indicated type of transaction over a specified period of time.
1. The vendor may refuse to honor a blanket certificate and shall cancel such a certificate if, at any time, the vendor has reason to believe that the information contained in the certificate is no longer accurate or complete or no longer applies.
2. A new, accurate, and complete certificate may then be accepted.

D. Documentation, including a certificate other than a departmental certificate, may be accepted by the vendor to establish the right to a deduction.
1. If the vendor accepts a form of documentation other than a completed departmental certificate, the burden of proof remains with the vendor to establish the right to the deduction.
2. Other documentation necessary to establish a deduction from the tax base shall contain the information required by A.R.S. § 42-1316(A).

E. Documentation or a certificate to establish a deduction from the tax base shall be provided for each transaction or if a blanket certificate is used for each different exemption category.

F. The vendor shall retain all documentation for the required statutory period pursuant to A.R.S. § 42-113.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-2214 adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2215. Return and Payment of Tax-estimated Tax

A. For purposes of this rule, the following definitions apply:
1. "Annual estimated tax payment" means ½ of the total tax liability for the entire month of May or the total tax liability for the 1st 15 days of the month of June.
2. "Annual tax liability" means a total tax liability of $100,000.00 or more in the preceding calendar year or a reasonable anticipation of a total tax liability of $100,000.00 or more in the current year.
3. "Taxpayer" has the meaning set forth in A.R.S. § 42-1322(J). The following are considered a single taxpayer:
   a. Members of an Arizona-affiliated group filing a consolidated corporate income tax return under A.R.S. § 43-947;
   b. Corporations in a unitary business filing a combined corporate income tax return under A.A.C. R15-2-1131(E);
   c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return; or
   d. Partnerships, Limited Liability Companies, S Corporations, trusts, or estates conducting multiple businesses, filing a single income tax return.
4. "Total tax liability" means the combined total of the transaction privilege tax, telecommunications services excise tax, and county excise tax liabilities.

B. The requirement to make an annual estimated tax payment is based on the annual tax liability. Use tax and severance tax are not subject to the estimated tax provisions.
1. A taxpayer shall make an annual estimated tax payment if during the current calendar year the taxpayer, through use of ordinary business care and prudence, can anticipate incurring the annual tax liability. For example:
   ABC Company has been selling home electronics for several years. Its tax liability for previous calendar years has averaged between $60,000 and $70,000. In February of the current year, ABC Company begins selling computers and accessories as well. Early sales reports show an increase in total sales of approximately 50%. Based on these facts, ABC Company can reasonably anticipate incurring the annual tax liability.
2. Taxpayers with multiple locations shall make the annual estimated tax payment based on the combined actual or anticipated annual tax liability from all locations. Taxpayers with multiple locations, shall make a single estimated payment each June.

C. A taxpayer shall not amend an annual estimated tax payment except to increase the amount of the payment.

D. The annual estimated tax payment shall not be applied, credited, or refunded until a Transaction Privilege, Use, and Severance Tax Return (TPT-1) for the month of June is filed.

E. Late payment, underpayment, or non-payment of the annual estimated tax payment shall result in the following:
1. Application of the penalty provisions under A.R.S. § 42-136;
2. Accrual of interest beginning from the due date of the annual estimated tax payment as prescribed in A.R.S. § 42-1322(D); and
3. Loss of the accounting credit, as defined in A.R.S. § 42-1322.04 for the June reporting period.

F. Taxpayers who are not required to make the annual estimated tax payment but make a voluntary annual estimated payment are not subject to subsection (E).

Historical Note
Former Section R15-5-2215 renumbered to R15-5-2004, new Section R15-5-2215 renumbered from R15-5-212 effective October 14, 1993 (Supp. 93-4). Amended effective April 8, 1997 (Supp. 97-2).

R15-5-2216. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2217. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2218. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2219. Renumbered

Historical Note
Renumbered to R15-5-3005 effective July 23, 1985 (Supp. 85-4).

R15-5-2220. Registration and Licensing

A. Out-of-state vendors making sales to Arizona purchasers shall obtain a use tax license from the Department.

B. Use tax collected on an isolated sale to an Arizona customer may be remitted under a cover letter rather than on a standard report form.

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4). New Section R15-5-2220 renumbered from R15-5-2363 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2221. Remittal of Use Tax on Purchases from Unlicensed Retailers

A. Arizona purchasers regularly making purchases from unlicensed vendors, where the purchases are subject to use tax, shall obtain a use tax license and remit payments directly to the Department.

B. An Arizona purchaser who is licensed in Arizona shall remit the use tax to the Department on the purchaser's Sales, Use, and Severance Tax Return (ST-1) if tangible personal property is purchased from an out-of-state retailer who is not licensed to collect the use tax.

C. An Arizona purchaser who is not licensed in Arizona shall remit the use tax to the Department under a cover letter if tangible personal property is purchased from an out-of-state retailer who is not licensed to collect the use tax.

Historical Note
Amended effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1). New Section adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2222. Record Retention

A vendor collecting use tax from a purchaser shall keep and preserve suitable records and other books and accounts necessary to determine the tax collected for the statutorily prescribed limitation period. For purposes of this rule, the limitation period is the period of time for which the Department may assess tax, penalties, or interest pursuant to A.R.S. § 42-113. Records, books, and accounts shall be open for inspection at any reasonable time by the Department or its authorized agent.

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1). New Section adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2223. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2224. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2225. Repealed

Historical Note
Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-2226. Repealed

Historical Note
Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-2227. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2228. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2229. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2230. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2231. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2232. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2233. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2234. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2235. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2236. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2237. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2238. Reserved

R15-5-2239. Reserved

R15-5-2240. Repealed

Historical Note
Adopted effective April 21, 1994 (Supp. 94-2). Section repealed by final rulemaking at 9 A.A.R. 5042, effective January 3, 2004 (Supp. 03-4).

R15-5-2241. Spending Requirements

A. A motion picture production company shall satisfy the statutory spending requirements prior to applying for a refund.

B. The statutory 12-month period begins with the first expenditure in the state reported at the discretion of the motion picture company.

C. For purposes of determining includible expenditures within a 12-month period, the following shall apply:
1. The date of the expenditure, regardless of the method of payment, shall establish the qualification of the expenditure in satisfying the statutory requirement.
2. Any expenditure made by credit card or petty cash shall be includible if the following conditions are met prior to the submission of the refund request:
   a. The credit card liability shall be paid through the checking account in a financial institution in this state; and
   b. The petty cash account shall be reimbursed through the checking account in a financial institution in this state.

D. For purposes of determining the location of a transaction, the following criteria shall apply:
1. For retail purchases of tangible personal property, the location of the transaction shall be determined at the time and place that the customer takes title to the personal property. Title passes at the time and place of the physical delivery of the goods to the purchaser absent any agreement to the contrary. If an agreement exists regarding the delivery of the tangible personal property, title passes at the location designated in the agreement.
2. For leases of tangible personal property, the location of the transaction shall be determined pursuant to Article 15.

Historical Note
Adopted effective April 21, 1994 (Supp. 94-2).

R15-5-2242. Reports

A. The motion picture production company shall submit the following reports when applying for a refund of transaction privilege or use taxes paid:
1. The total expenditure report in order to document that the company has had at least $1 million in total qualified expenditures during the 12-month period and which shows that the expenditures were paid through a financial institution in this state;
2. The payroll expenditure report for purposes of documenting salaries and wages paid to Arizona residents filing an Arizona personal income tax return in the preceding year; and
3. The final expenditure report documenting purchases and leases of tangible personal property within the state of Arizona upon which a tax refund may be obtained.

B. The total expenditure report shall include the following:
1. The name of the vendor,
2. The period covered,
3. A description of the expenditure, and
4. The total amount of the expenditure.

C. The payroll expenditure report shall include the following:
1. Employee name;
2. Employee social security number;
3. Period covered, and
4. Total wages paid to each employee for the period.

D. The final expenditure report shall include the following:
1. Name of vendor;
2. Arizona Transaction Privilege Tax license number of any vendor if purchases or leases of tangible personal property from that vendor total $500 or more;
3. Purchase order numbers or vendor's invoice numbers, including dates;
4. Name of financial institution and the number of the check which was used to purchase or lease tangible personal property;
5. Credit card number used to purchase or lease tangible personal property;
6. Date of purchase or lease;
7. Description of tangible personal property purchased or leased;
8. City where tangible personal property purchased or leased;
9. Price of tangible personal property before tax;
10. Total amount of tax paid; and
11. Type of tax paid: transaction privilege or use tax.

E. Forms as issued by the Department of Revenue may be used for submission of the required information.

Historical Note
Adopted effective April 21, 1994 (Supp. 94-2).

ARTICLE 23. USE TAX

R15-5-2301. Definitions

The following definitions apply for the Department's administration of use tax:
1. "Mail order retailer" means a retailer who solicits orders by mail, notwithstanding the fact that orders may be received by telephone or by mail or that goods may be delivered by mail or by private delivery system.
2. "Purchases" means purchase for storage, use, or consumption in Arizona.
3. "Retailer" includes any retailer located outside this state who solicits orders for tangible personal property by mail from points in this state if the solicitations are substantial and recurring.

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4). New Section R15-5-2301 adopted effective December 6, 1990 (Supp. 90-4). Amended effective September 29, 1993 (Supp. 93-3).

R15-5-2302. General

A. The Use Tax Act imposes upon the buyer a tax on the purchase of tangible personal property from an out-of-state vendor.

B. The tax applies to the use, storage, or consumption of items purchased from out-of-state suppliers.

C. In cases where the buyer has paid Sales Tax to an out-of-state seller, the amount paid may be applied against his Arizona Use Tax liability.

R15-5-2303. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-2304. Presumption of Taxability of Property Brought into Arizona

A. If tangible personal property is purchased outside Arizona and is subsequently brought into this state for use, storage, or consumption, the purchaser of such property shall be subject to the Arizona use tax unless the purchaser establishes to the satisfaction of the Department:
1. That the property is not used in conducting a business in Arizona; and
2. That the property was purchased for bona fide use or consumption outside Arizona. Unless shown otherwise, it shall be presumed that the property was purchased for bona fide use or consumption outside of Arizona if the

property was purchased at least three months prior to its initial entry into Arizona; or

3. If the property was purchased by a nonresident individual, that the first actual use or consumption of the property occurred outside Arizona.

B. It shall be presumed that property brought into the state is subject to the use tax. The burden of proof that a purchase is not subject to use tax rests upon the purchaser.

Historical Note
Former Section R15-5-2311 repealed, new Section R15-5-2311 adopted effective August 7, 1985 (Supp. 85-4). Former Section R15-5-2304 repealed, new Section R15-5-2304 renumbered from R15-5-2311 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2305. Credit for Sales Tax Paid in State of Purchase

A. When a Sales Tax has been paid in the state of purchase equal to or greater than the Arizona Use Tax, the purchaser has no further liability.

B. In cases where the amount of Sales Tax paid in the state of purchase is less than the Arizona Use Tax, the purchaser has an additional liability to the state of Arizona. For example, if the amount of tax paid in another state is 3% of the purchase price and the Arizona Use Tax rate is 4%, the purchaser is required to pay an additional 1%.

R15-5-2306. Distinction Between Sales Tax and Use Tax

A. The Sales Tax is imposed on sales made by vendors located within Arizona, while the Use Tax is levied on purchases from out-of-state vendors.

B. Since the Sales Tax and Use Tax are complementary taxes, only one of the taxes can be applied to a given transaction.

R15-5-2307. When a Transaction is Subject to the Sales Tax

Sales made by vendors maintaining a place of business within Arizona are subject to the Sales Tax. Sellers operating from a commercial location or point of distribution, soliciting from a public place of business, or buying and selling articles on their own account within the state are deemed to be in business in Arizona.

For example, an office equipment dealer maintains a sales office in Arizona, solicits business from customers in Arizona, and orders the equipment from its home office out of state. Although the seller maintains no stock of inventory in Arizona and the products are shipped directly to the purchaser, he is nevertheless considered to be engaging in business within the state for purposes of this regulation. Such sales are taxable under the Sales Tax statutes.

R15-5-2308. When a Transaction is Subject to the Use Tax

Purchases made from vendors not maintaining a place of business in this state to Arizona customers are subject to the Use Tax. For example, purchases from an out-of-state vendor selling by mail order to Arizona residents are subject to the Use Tax.

R15-5-2309. Exemptions -- Purchases for Resale or Lease

A. Purchases of tangible personal property from a retailer for resale in the ordinary course of the purchaser's business shall not be subject to the use tax.

B. Purchases of tangible personal property from a retailer for subsequent leasing or renting in the ordinary course of the purchaser's business shall not be subject to the use tax.

Historical Note
Former Section R15-5-2309 renumbered to R15-5-2363, new Section R15-5-2309 renumbered from R15-5-2322 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2310. Payment of Use Tax by Purchaser

A. The Use Tax must be paid to:

1. An out-of-state vendor holding a certificate of authority for the collection of Use Tax, or
2. The Arizona Department of Revenue in cases where the vendor is not registered for the collection of the tax.

B. Arizona purchasers making recurring purchases from out of state may apply to the Department for a registration certificate and remit payment directly to the state on a monthly report form in lieu of making payment to the vendor.

C. The purchaser will be relieved of his liability for the tax when payment is made directly to the out-of-state vendor registered and a receipt of the tax paid is obtained by him.

R15-5-2311. Renumbered

Historical Note
Former Section R15-5-2311 repealed, new Section R15-5-2311 adopted effective August 7, 1985 (Supp. 85-4). Former Section R15-5-2311 renumbered to R15-5-2304 effective September 29, 1993 (Supp. 93-3).

R15-5-2312. Casual Sales

Tangible personal property purchased in a casual sale, as defined in R15-5-2001, is not taxable.

Historical Note
Former Section R15-5-2312 repealed, new Section R15-5-2312 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2313. Lease-purchase Agreements

A. Purchase payments made after conversion from a lease to a purchase of tangible personal property shall be subject to the use tax unless the lease-purchase transaction is subject to the transaction privilege tax.

B. The purchase price of tangible personal property shall include conversion charges paid or incurred at the time the lease is converted to a purchase.

Historical Note
Former Section R15-5-2313 repealed, new Section R15-5-2313 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2314. Purchases from Trustees, Receivers, and Assignees

A. Tangible personal property purchased for storage, use, or consumption in Arizona from a trustee, receiver, or assignee shall be subject to use tax if the purchase of the tangible personal property in the hands of the owner would have been subject to the use tax.

B. Tangible personal property purchased for storage, use, or consumption in Arizona from a trustee, receiver, or assignee shall not be subject to the use tax if the purchase of the property from the owner would have been exempt.

Historical Note
Former Section R15-5-2314 renumbered to R15-5-2321, new Section adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2315. Renumbered

Historical Note
Former Section R15-5-2315 renumbered to R15-5-3006 effective July 23, 1985 (Supp. 85-4).

R15-5-2316. Repealed

Historical Note
Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2317. Renumbered

Historical Note
Former Section R15-5-2317 renumbered to R15-5-2352 effective September 29, 1993 (Supp. 93-3).

R15-5-2318. Repealed

Historical Note
Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2319. Renumbered

Historical Note
Former Section R15-5-2319 renumbered to R15-5-2353 effective September 29, 1993 (Supp. 93-3).

R15-5-2320. Exemptions -- Machinery or Equipment

A. Machinery or equipment used in manufacturing or processing includes machinery or equipment that constitutes the entire primary manufacturing or processing operation from the initial stage where actual processing begins through the completion of the finished end product, and that is used in the production, manufacture, fabrication, processing, finishing, or packaging of articles of commerce. Manufacturing is the performance as a business of an integrated series of operations which place tangible personal property in a form, composition, or character different from that in which it was acquired, and transforms it into a different product with a distinctive name, character, or use.

B. Purchase of repair or replacement parts for exempt machinery or equipment is not subject to the use tax. Repair or replacement parts are defined as those individual component and constituent items which, together, comprise exempt machinery or equipment.

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B) effective March 18, 1981 (Supp. 81-2). Former Section R15-5-2320 renumbered to R15-5-2362, new Section R15-5-2320 renumbered from R15-5-2321 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2321. Exemptions -- Articles to be Incorporated into a Manufactured Product

Purchases of articles which become an integral part of a manufactured product are not subject to the Use Tax. They are considered purchases for resale.

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Former Section R15-5-2321 renumbered to R15-5-2320, new Section R15-5-2321 renumbered from R15-5-2314 effective September 29, 1993 (Supp. 93-3).

R15-5-2322. Renumbered

Historical Note
Former Section R15-5-2322 renumbered to R15-5-2309 effective September 29, 1993 (Supp. 93-3).

R15-5-2323. Repealed

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2324. Repealed

Historical Note
Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2325. Repealed

Historical Note
Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2326. Manufacturing Labor

The cost of labor employed in the manufacturing, processing, or fabricating of tangible personal property shall not be allowed as a deduction from the sales price on a purchase of such property.

Historical Note
Former Section R15-5-2326 repealed, new Section R15-5-2326 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2327. Fuels

A. For purposes of this rule, "use fuel" means fuel other than motor vehicle fuel as defined in A.R.S. § 28-101(28). Diesel fuel is a use fuel. Gasoline is a motor vehicle fuel.

B. Purchases of use fuel are taxable if the use fuel is not used to propel vehicles on the streets, roads, or highways of this state.

C. Purchases of jet fuel are subject to tax under the jet fuel excise and use tax classification.

Historical Note
Former Section R15-5-2327 renumbered to R15-5-2360, new Section R15-5-2327 renumbered from R15-5-3006 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2328. Electric Power Transmission and Distribution

Purchases of machinery, equipment, or transmission lines for direct use in producing or transmitting power but not including distribution are subject to use tax based on the same definitions as in R15-5-128.

Historical Note
Former Section R15-5-2328 renumbered to R15-5-2361, new Section R15-5-2328 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2329. Repealed

Historical Note
Former Section R15-5-2329 repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2330. Tangible Personal Property Used in Conjunction with Warranty or Service Contracts

A. For purposes of this rule, "covered" tangible personal property is that which is included in the charge for the warranty or service contract and the warranty or service contract holder is not additionally charged for such property.

B. A warrantor or service person shall be liable for use tax on the cost of covered tangible personal property which is purchased for resale but which is subsequently taken out of inventory and is used in performing work under a warranty or service contract.

C. Tangible personal property used in performing work under a warranty or service provision, as delineated in R15-5-137(B) shall not be subject to the tax.

Historical Note
Adopted effective September 3, 1978 (Supp. 78-6). Former Section R15-5-2330 renumbered to R15-5-2343, new Section R15-5-2330 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2331. Repealed

Historical Note
Adopted as an emergency effective July 1, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now adopted effective Octo-

ber 15, 1980 (Supp. 80-5). Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2332. Delivery Charges
A charge by a retailer for delivery from the retailer's location to the purchaser's location, if separately stated on the sales invoice, is not taxable.

Historical Note
Adopted effective December 6, 1990 (Supp. 90-4). Former Section R15-5-2332 renumbered to R15-5-2350, new Section R15-5-2332 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2333. Reserved

R15-5-2334. Purchases of Restaurant Accessories
A. Purchases of disposable containers, paper napkins, and other similar food accessories by persons engaged in the restaurant business that are transferred by the restaurant in the regular course of business to facilitate the consumption of the food, drink, or condiment provided shall be considered purchases for resale.
B. Purchases of matchbooks, advertisement fliers, and other similar tangible personal property by persons engaged in the restaurant business that are transferred by the restaurant for the convenience, operation, or benefit of the restaurant business are taxable.

Historical Note
Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2335. Reserved

R15-5-2336. Reserved

R15-5-2337. Reserved

R15-5-2338. Reserved

R15-5-2339. Reserved

R15-5-2340. Tangible Personal Property Used in Soil Remediation Activities
The purchase of tangible personal property for incorporation or fabrication into any real property, structure, project, development or improvement under a contract specified in A.R.S. § 42-1310.16 (B)(6) is exempt from tax. The purchase of tangible personal property used in soil remediation activities but not incorporated or fabricated into any real property, structure, project, development or improvement is taxable.

Historical Note
Adopted effective December 11, 1998 (Supp. 98-4).

R15-5-2341. Four-inch Pipes or Valves
Purchases of pipes, valves, or fire hydrants with an inside diameter of four inches or more are not taxable if the pipes, valves, or fire hydrants are to be used to transport oil, natural gas, artificial gas, water, or coal slurry.

Historical Note
Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2342. Computer Hardware and Software
Purchases of computer hardware and software are subject to the use tax based on the same provisions as delineated in R15-5-154.

Historical Note
Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2343. Purchases of Prescription Drugs and Prosthetic Appliances
A. For purposes of this rule, the following definitions apply:
1. "Drugs on a prescription" means those substances which can only be dispensed on the direction of a member of the medical, dental, or veterinary profession, who is licensed by law to administer such drugs and which cannot be purchased without such authorization. A legend drug is considered a drug on a prescription.
2. "Hearing aid" means any wearable device designed for aiding or compensating for defective human hearing including parts, attachments, accessories, and earmolds.
3. A "legend drug" is a drug which bears the statement *CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT PRESCRIPTION.*
4. "Nonprescription drugs" means a substance which can be purchased without a prescription even though it may be recommended by a member of the medical, dental, or veterinarian profession.
5. "Prescription drugs" are drugs on a prescription.
6. "Prescription eyeglasses" includes frames and component parts if purchased for use with the prescription lenses.
7. "Prosthetic appliance" means an artificial device which fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.

B. Purchases of the following items are not taxable:
1. Drugs on a prescription.
2. Medical oxygen, pursuant to statute.
3. Insulin, insulin syringes, and glucose strips whether or not prescribed.
4. Prosthetic appliances prescribed or recommended by a statutorily authorized individual.
5. Durable medical equipment pursuant to statute.
6. Prescription eyeglasses and contact lenses.
7. Hearing aids. Batteries and cords do not qualify as exempt.

C. Unless otherwise stated, purchases of component and repair parts for any property included in this rule are not taxable.
D. If a prescription or recommendation is required to purchase the tangible personal property, the required prescription or recommendation shall be in writing and maintained as part of the vendor's records.
E. Purchases of nonprescription drugs and other medical supplies and appliances by doctors, dentists, or veterinarians ar taxable.
1. Purchases of nonprescription drugs and other medical supplies and appliances by doctors, dentists, and veterinarians are not taxable if the tangible personal property qualifies as a purchase for resale, and the doctor, dentist, or veterinarian is a retailer in the business of reselling such property.
2. Purchases of prescription drugs for use in the course of treating patients are not taxable if the prescription drugs are sold to a member of the medical, dental, or veterinarian profession who is licensed by law to administer prescription drugs.
3. Purchases of prescription drugs are not taxable if the prescription drugs are sold to an organization where the prescription drugs are used in the course of treating patients and are administered under the direction of a member of the medical, dental, or veterinarian profession who is licensed by law to administer such drugs.

Historical Note
Renumbered from R15-5-2330 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2344. Postage Stamps
A. The purchase of postage stamps is not subject to use tax if the stamps are purchased for the purpose of transporting mail.

B. The purchase of postage stamps is subject to use tax if the stamps are purchased for any purpose other than transporting mail.

C. The Department shall presume that a postage stamp is purchased for a purpose other than transporting mail if the postage stamp is purchased for at least 50% more than its face value. A purchaser may overcome the presumption; however, the burden of proof will remain on the purchaser.

D. The purchase of cancelled postage stamps is subject to use tax.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 4112, effective October 4, 2000 (Supp. 00-4).

R15-5-2345. Reserved

R15-5-2346. Reserved

R15-5-2347. Reserved

R15-5-2348. Reserved

R15-5-2349. Reserved

R15-5-2350. Mail Order Retailers

This rule is not a limitation on other provisions of Arizona Revised Statutes, Title 42, Chapter 8. Article 2. A mail order retailer's transactions are substantial and recurring if the following conditions are satisfied:

1. The sale of tangible personal property would be subject to transaction privilege taxation if the transaction would have occurred in this state, and
2. During any 12-month period:
   a. The retailer's total sales in this state exceed $100,000.00; or
   b. Two or more mailings, aggregating 5,000 or more solicitations, are made to points in this state.

Historical Note
Adopted effective December 6, 1990 (Supp. 90-4). Renumbered from R15-5-2332 effective September 29, 1993 (Supp. 93-3).

R15-5-2351. Purchases by Non-U.S. Citizens

Purchases of tangible personal property by non-U.S. citizens shall be subject to the use tax unless otherwise exempt.

Historical Note
Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2352. Nonresident Exemption

A. Tangible personal property brought into Arizona by a nonresident to be used in a business in Arizona shall be subject to the use tax.

B. Tangible personal property brought into Arizona for use by a nonresident temporarily within the state is not subject to the tax if the property is for the personal use of the nonresident and is taken out of the state when the nonresident leaves the state.

C. If tangible personal property is purchased outside Arizona and is subsequently brought into this state for use, storage, or consumption, the purchaser of such property shall be subject to the Arizona use tax unless the purchaser establishes to the satisfaction of the Department:

1. That the property is not used in conducting a business in Arizona; and
2. That the property was purchased for bona fide use or consumption outside Arizona. Unless it can otherwise be shown, it shall be presumed that the property was purchased for bona fide use or consumption outside of Arizona if the property was purchased at least three months prior to its initial entry into Arizona; or
3. If the property was purchased by a nonresident individual, that the first actual use or consumption of the property occurred outside Arizona.

Historical Note
Section R15-5-2352 renumbered from R15-5-2317 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2353. Property Purchased Outside of the United States

A. Tangible personal property purchased outside of the United States is taxable when purchased for business use.

B. In any one calendar month, tangible personal property purchases with a cumulative purchase price of $200 or less are not taxable if purchased for nonbusiness use. Purchases in excess of the $200 exemption are taxable on the excess amount.

Historical Note
Section R15-5-2353 renumbered from R15-5-2319 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2354. Reserved

R15-5-2355. Reserved

R15-5-2356. Reserved

R15-5-2357. Reserved

R15-5-2358. Reserved

R15-5-2359. Reserved

R15-5-2360. Government Purchases

A. Purchases of tangible personal property by any state or its political subdivisions are taxable.

B. Purchases by the Federal Government are not taxable.

Historical Note
Section R15-5-2360 renumbered from R15-5-2327 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2361. Nonprofit Organizations

A. Purchases of tangible personal property by nonprofit churches, schools, and other nonprofit organizations are taxable unless otherwise exempt.

B. Purchases of tangible personal property from a charitable nonprofit organization recognized as having tax-exempt status for income tax purposes with the Internal Revenue Service and the Department are not taxable.

C. If an organization wishes to obtain tax-exempt status by being recognized by the Department as a nonprofit charitable organization, it shall submit a letter to the Department requesting tax-exempt status and shall include a copy of its Internal Revenue Service recognition.

D. For purposes of the statutory exemption and for this rule, the Internal Revenue Service recognition of a charitable nonprofit organization is as defined in Internal Revenue Code § 501(c)(3).

Historical Note
Section R15-5-2361 renumbered from R15-5-2328 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2362. Exempt Purchases by Health Organizations

A. Purchases by qualifying hospitals, nursing care institutions, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers are exempt from tax pursuant to statutory provisions.

B. The Department may, upon review of the written request and any other information requested by the Department to make a

proper determination, provide an Exemption Letter to organizations meeting the statutory criteria. The Exemption Letter shall be valid for a period of 12 months from the first day of the month following the issue date of the Exemption Letter unless the organization's tax exempt status changes prior to the end of the 12-month period, or the organization misrepresented or omitted material information in its exemption request.

C. Qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers shall annually submit to the Department a written request for an Exemption Letter. The request shall be submitted at least 30 days prior to the first day of the exemption period. For purposes of this rule, "exemption period" means the 12-month period beginning on the first day of the month following the issue date of the Exemption Letter or the 12-month period requested by the organization.

1. Qualifying hospitals shall attach to their annual exemption request a copy of their current license issued by the Department of Health Services.
2. Qualifying health care organizations shall attach to their exemption request letter the statutorily required annual financial audit and a copy of their Internal Revenue Code 501(c) recognition unless the Department has previously received a copy of this recognition.
3. Rehabilitation programs for mentally or physically handicapped persons shall attach to their exemption request a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.
4. Qualifying community health centers shall attach to their exemption request documentation supporting the statutory criteria and a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.

Historical Note
Section R15-5-2362 renumbered from R15-5-2310 and amended effective September 29, 1993 (Supp. 93-3). Amended effective April 21, 1995 (Supp. 95-2).

R15-5-2363. Renumbered

Historical Note
Renumbered from R15-5-2309 effective September 29, 1993 (Supp. 93-3). Renumbered to R15-5-2220 effective October 14, 1993 (Supp. 93-4).

ARTICLE 24. REPEALED

R15-5-2401. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2402. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2403. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2404. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2405. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2406. Repealed

Historical Note
Amended effective March 18, 1981 (Supp. 81-2). Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2407. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2408. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2409. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2410. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2411. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2412. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2413. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2414. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2415. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2416. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2417. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2418. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2419. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2420. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2421. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2422. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2423. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2424. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2425. Repealed

Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2426. Repealed

Historical Note
Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 25. REPEALED

R15-5-2501. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2502. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2503. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2504. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2505. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2506. Repealed

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2507. Repealed

Historical Note
Amended effective March 18, 1981 (Supp. 81-2). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

ARTICLE 26. REPEALED

R15-5-2601. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2602. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2603. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2604. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2605. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2606. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2607. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2608. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2609. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2610. Repealed

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2611. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2612. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2613. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2614. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2615. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2616. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2617. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2618. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2619. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2620. Repealed

Historical Note
Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 27. RESERVED

ARTICLE 28. RESERVED

ARTICLE 29. RESERVED

ARTICLE 30. INTERIM RULES

R15-5-3001. Reserved

R15-5-3002. Reserved

R15-5-3003. Reserved

R15-5-3004. Renumbered

Historical Note
(A.R.S. § 1321) Former Section R15-5-1846 renumbered as Section R15-5-3004 and amended effective July 23, 1985 (Supp. 85-4). Renumbered to R15-5-127 effective August 9, 1993 (Supp. 93-3).

R15-5-3005. Renumbered

Historical Note
(A.R.S. § 42-1451) Former Section R15-5-2219 renumbered as Section R15-5-3005 and amended effective July 23, 1985 (Supp. 85-4). Former Section R15-5-3005 renumbered to R15-5-2212 effective October 14, 1993 (Supp. 93-4).

R15-5-3006. Renumbered

Historical Note
(A.R.S. § 42-1409) Former Section R15-5-2315 renumbered as Section R15-5-3006 and amended effective July 23, 1985 (Supp. 85-4). Former Section R15-5-3006 renumbered to R15-5-2327 effective September 29, 1993 (Supp. 93-3).

R15-5-3007. Reserved

R15-5-3008. Reserved

R15-5-3009. Reserved

R15-5-3010. Reserved

R15-5-3011. Reserved

R15-5-3012. Reserved

R15-5-3013. Reserved

R15-5-3014. Reserved

R15-5-3015. Reserved

R15-5-3016. Repealed

Historical Note
(A.R.S. §§ 42-1313, 42-1317) Adopted effective October 1, 1986 (Supp. 86-5). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-3017. Reserved

R15-5-3018. Renumbered

Historical Note
(A.R.S. § 42-1305) Adopted effective September 3, 1986 (Supp. 86-5). Renumbered to R15-5-2206 effective October 14, 1993 (Supp. 93-4).

R15-5-3019. Reserved

R15-5-3020. Reserved

R15-5-3021. Repealed

Historical Note
Adopted effective August 13, 1987 (Supp. 87-3). Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-3022. Repealed

Historical Note
Adopted effective August 13, 1987 (Supp. 87-3). Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-3023. Renumbered

Historical Note
(A.R.S. § 42-1302) Former Section R15-5-209 renumbered and amended as Section R15-5-3023 effective August 26, 1987 (Supp. 87-3). Section R15-5-209 renumbered as Section R15-5-3023 and amended in error, see Section R15-5-209 (Supp. 88-3).

R15-5-3024. Repealed

Historical Note
(A.R.S. § 42-1307) Former Section R15-5-2102 renumbered and amended as Section R15-5-3024 (Supp. 86-6). Correction, effective date of last amendment to read: "effective December 31, 1986" (Supp. 87-3). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-3025. Renumbered

Historical Note
(A.R.S. § 42-1322.01) Adopted effective September 24, 1986 (Supp. 86-5). Renumbered to R15-5-2007 (Supp. 94-2).

R15-5-3026. Reserved

R15-5-3027. Reserved

R15-5-3028. Reserved

R15-5-3029. Reserved

R15-5-3030. Reserved

R15-5-3031. Reserved

R15-5-3032. Repealed

Historical Note
(A.R.S. § 42-1472) Adopted effective September 24,

1986 (Supp. 86-5). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-3033. Reserved

R15-5-3034. Reserved

R15-5-3035. Determination of taxable basis: nuclear fuel

A. The quantity of uranium oxide used in producing a nuclear fuel assembly shall be determined by calculating the total amount of uranium oxide that was required to produce the nuclear fuel assembly, without any allowance for waste or loss due to processing.

B. The average cost allocated to the total amount of uranium oxide that was required to produce the nuclear fuel assembly shall be the taxable base of the nuclear fuel assembly. For purposes of fixing the point in time at which the average costs reflected in the taxpayer's books and records shall be allocated under various circumstances, the average cost of the quantities identified in subsection (A) shall be determined as follows:

1. If uranium oxide in the form of uranium hexafluoride is delivered by the taxpayer to the United States Department of Energy for enrichment, at the end of the month in which such delivery occurs;
2. If no enrichment is undertaken, at the end of the first month in which natural uranium oxide in the form of uranium hexafluoride is delivered for fabrication; or
3. If uranium oxide is first purchased after final enrichment, at the end of the month in which the purchase occurs.

Historical Note

Adopted effective September 16, 1987 (Supp. 87-3).

R15-5-3036. Renumbered

Historical Note

Adopted effective August 7, 1987 (Supp. 87-3). Renumbered to R15-5-157 effective August 9, 1993 (Supp. 93-3).